NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 18. GOVERNMENT INFORMATION TECHNOLOGY AGENCY

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R2-18-101	Amend
R2-18-201	Amend
R2-18-301	Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A. R. S. §§ 41-3504(A)(12) and (13)

Implementing statute: A. R. S. §§ 41-3504

3. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 10 A.A.R. 1626, April 23, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 1576, April 23, 2004
Notice of Supplemental Rulemaking: 10 A.A.R. 2480, June 25, 2004

4. The effective date of the rules:

December 4, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Mr. D.J. Harper, Communication and Outreach Mgr.

Address: Government Information Technology Agency
100 N. 15th Ave., Suite 440
Phoenix, AZ 85007

Telephone: (602) 364-4772

Fax: (602) 364-4799

E-mail: djharper@azgita.gov

6. An explanation of the rules, including the agency's reasons for initiating the rule:

The Government Information Technology Agency (GITA) is the Office of Arizona's Chief Information Officer (CIO) and is responsible for information technology (IT) planning, oversight, coordination, and consulting. Under A. R. S. §§ 41-3504 A(12) and (13), the Agency is granted authority to adopt rules "necessary or desirable to further the objectives and programs of the agency." The proposed rulemaking is submitted under the authority granted in statute.

The proposed amendments are related to the agency's July 2003 five-year review of its existing rules and their effectiveness. The proposed changes are designed to update the rules and to make them consistent with current rulewriting standards as well as with current agency practice. Amendments are proposed for three of the four primary areas described in the agency rules.

The proposed amendments create consistency in terminology relative to the current activities of the agency by updating specific definitions used in the rules. In addition, the amended rules clarify ambiguity regarding references to secondary documents used to prescribe detailed requirements.

The agency has received input to the effect that these secondary documents, such as policies, standards, and procedures (PSPs), referenced within the administrative rules are considered to have the force of rules themselves and must therefore be subjected to the rulemaking process. The agency was not aware of this consequence at the time the current rules were crafted. Proposed amendments provide reworded general compliance criteria that do not reference any specific statewide policies, standards, procedures, or templates. Due to the ever-increasing pace of technological

change, the agency requires flexibility in specifying detailed requirements for agencies beyond the rulemaking process. The statewide PSP Program provides the framework for that flexibility along with extensive collaboration with Arizona's CIO Council concerning the content of any individual PSP document.

Two other provisions of the rulemaking package are noteworthy. A set of revisions is being undertaken to more consistently define the information technology plans required of both budget units of the state and of GITA at the statewide level. Also, additional clarity is being added to the definitions of "major," "critical," and "quality assurance" to address stakeholder issues raised since the rules were originally created.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

None

9. The summary of the economic, small business, and consumer impact:

The agency does not directly impact private entities through its rules. No additional administrative costs to state agencies performing information technology functions governed by the rules are intended. Some benefit to agencies may be realized through making definitions more consistent with agency practice and clarification of the criteria regarding IT plans and project investment justifications.

10. A description of the changes between the proposed rule, including supplemental notices, and final rules:

There are minor changes to style, format, grammar, and punctuation, as requested by G.R.R.C. staff.

11. A summary of the comments made regarding the rules and the agency response to them:

The agency did not receive any oral or written comments regarding these rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporation by reference and their location in the rules:

None

14. Were these rules previously approved as emergency rules?

No

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 18. GOVERNMENT INFORMATION TECHNOLOGY AGENCY

ARTICLE 1. GENERAL PROVISIONS

Section
R2-18-101. Definitions

ARTICLE 2. INFORMATION TECHNOLOGY PROJECTS

Section
R2-18-201. Information Technology Project Justification and Monitoring

ARTICLE 3. INFORMATION TECHNOLOGY PLANNING

Section
R2-18-301. IT Planning

ARTICLE 1. GENERAL PROVISIONS

R2-18-101. Definitions

Unless the context requires otherwise, the following definitions ~~shall govern~~ apply:

1. No change

~~2.~~ ~~"Budget Unit IT Plan," as used in A.R.S. Title 41, Chapter 32, means a budget unit's documented strategy for using IT investments, projects, applications, direction, and expenses over a specific period of time, in accordance with planning standards in the PSP.~~

~~3.~~2. No change

~~4.~~3. "Critical information technology project," as used in A.R.S. Title 41, Chapter 32, means an IT project having development costs greater than $1 million that GITA or ITAC determines warrants monitoring because it:

a. ~~Is necessary to the state or budget unit mission,~~ Is complex,

b. ~~Is legally mandated, or~~ Involves advanced technology not previously deployed in any budget unit, or

c. Requires technical expertise that ~~may~~ is not ~~be~~ available in ~~a~~ the budget unit.

~~5.~~4. "Development costs" means the sum of IT project start-up costs, as defined in the ~~PSP Program~~ PIJ instructions.

~~6.~~5. No change

~~7.~~6. No change

~~8.~~7. "Incomplete IT Plan or PIJ" means an IT Plan or PIJ that is missing ~~required approvals or~~ information, sections, or approvals, as determined by GITA.

~~9.~~8. "Information technology plan" ("IT Plan"), as used in A.R.S. Title 41, Chapter 32, means a documented strategy for ~~using the implementation of~~ IT resources and ~~projects~~ practices to support business direction over a specific period of time.

~~10.~~9. No change

~~11.~~10. No change

~~12.~~11. No change

~~13.~~12. "Major information technology project," as used in A.R.S. Title 41, Chapter 32, means an IT project that has development costs greater than $1 million and:

a. Is necessary to the state or budget unit mission;

b. Is necessary to protect health, welfare, or safety of the public;

c. Is necessary for homeland security;

d. Is legally mandated;

e. Is necessary to improve government efficiency and effectiveness;

f. Involves a political subdivision; or

g. Involves multiple budget units.

~~14.~~13. 'PIJ' means project ~~and~~ investment justification document.

~~15.~~14. No change

~~16.~~15. "Project ~~and~~ investment justification template" means a standard set of forms and reporting formats~~, contained in the PSP,~~ to be prepared by a budget unit and submitted to GITA to describe an IT project and to identify resources, technologies, values, costs, goals, risks, quality assurance issues associated with the project, and to establish a specific time period for development and implementation of the project.

~~17.~~16. "Project status report" means a standard project status summary~~, as defined in the PSP,~~ that is used by a budget unit to report progress on IT projects.

~~18. "PSP" means the Policy, Standards and Procedures, which is developed and maintained by GITA, for information technology topics including:~~

~~a. IT planning guidelines,~~

~~b. Project justification and monitoring criteria,~~

~~c. PIJ review criteria,~~

~~d. Current PIJ template,~~

~~e. IT standards for state budget units, and~~

~~f. Policies and procedures related to IT.~~

~~19.~~17. "Quality assurance plan," as used in A.R.S. Title 41, Chapter 32, means a budget unit's ~~written strategy that identifies the criteria and activities a budget unit uses to ensure that the expectations of functionality, budget, and schedule are achieved as the budget unit's IT Plan is implemented.~~ process of evaluating overall program or project activities and tasks on a regular basis to provide the confidence that the IT program or project will produce the desired outcomes.

~~20.~~18. "Standards" as used in A.R.S. Title 41, Chapter 32 means ~~PSP~~ requirements~~,~~ relating to technical coordination and security components of information technology adopted by GITA for the purpose of developing and maintaining statewide coordinated use of, and access to, information technology resources.

~~21. "Statewide IT Plan," as used in A.R.S. Title 41, Chapter 32, means a statewide strategy for the application of information technology, published by GITA.~~

~~22.~~19. No change

~~23.~~20. No change

ARTICLE 2. INFORMATION TECHNOLOGY PROJECTS

R2-18-201. Information Technology Project Justification and Monitoring

A. If an IT project requires GITA approval, under A.R.S. Title 41, Chapter 23 and Chapter 32, a budget unit shall not commit or spend funds on the project and shall not enter into a project-related contract or vendor agreement until the budget unit receives written GITA approval.

1. ~~Using the PSP and the current PIJ template, a budget unit shall prepare and submit to GITA a~~ A budget unit shall submit a PIJ describing the value to the public and the State for the ~~budget unit's~~ IT project, ~~which is~~ consistent with the approved budget unit IT Plan submitted to GITA under R2-18-301. The budget unit shall use the current PIJ template and submit the completed PIJ to GITA.
2. If the PIJ is incomplete, GITA shall identify deficiencies and either request additional information or return the PIJ to the budget unit for completion and resubmission.
3. GITA shall use the following general criteria to review ~~GITA shall process a~~ each completed PIJ and approve, conditionally approve, or disapprove the proposed IT project~~, and shall notify the budget unit CEO of GITA's decision.~~:
   a. ~~If GITA conditionally approves the IT project, GITA shall identify the conditions that the budget unit shall satisfy for approval. The budget unit may begin the IT project, with GITA monitoring, until the identified conditions have been satisfied.~~ Whether the proposed solution addresses the stated problem or situation;
   b. ~~If GITA disapproves the IT project, the budget unit shall not begin the IT project and shall not enter into any project-related contract of vendor agreement.~~ Whether the budget unit is competent to carry out the project successfully;
   c. Whether sufficient sponsorship and support by budget unit leadership exists;
   d. Whether cost estimates provided are accurate;
   e. Whether the proposed solution is compatible with other budget unit solutions;
   f. How likely unintended consequences are;
   g. Whether the proposed project plan is reasonable; and
   h. Whether the proposed solution complies with statewide IT standards.
4. GITA shall inform the budget unit CEO of its review decision in writing.
5. If GITA conditionally approves the IT project, it shall identify the conditions that the budget unit shall satisfy to proceed with the project. Unless otherwise stated in GITA's communication to the budget unit CEO, the budget unit may begin the IT project, with GITA monitoring, while the identified conditions are in the process of being satisfied by the budget unit.
6. If GITA disapproves the IT project, the budget unit shall not begin the IT project and shall not enter into any project-related contract or vendor agreement.

~~4.~~7. No change.

B. No change

C. No change

D. No change

1. No change
2. No change

ARTICLE 3. INFORMATION TECHNOLOGY PLANNING

R2-18-301. Information Technology Planning

A. ~~Using the PSP,~~ Under A.R.S. Title 41, Chapter 32, ~~a~~ each budget unit shall annually develop and submit to GITA an IT Plan ~~and submit it to GITA, under A.R.S. Title 41, Chapter 32~~ containing goals, objectives, and performance measures, on or before September 1 each year.

B. No change

C. GITA shall review the proposed, complete, budget unit IT Plan to determine the degree of change from previous plans and whether:

1. Performance measures are measurable,
2. Quality assurance measures are included,
3. Exposed gaps are addressed, and
4. IT goals and business goals align.

GITA shall ~~and~~ either approve or disapprove ~~the proposed plan and~~ the IT Plan and shall notify the budget unit CEO of ~~GITA's~~ its decision. An approved budget unit IT Plan remains in effect until the end of the fiscal year for which it is submitted, or until it is modified or replaced ~~in accordance with~~ according to subsection (E).

D. No change

E. No change

1. No change
2. No change

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected | **Rulemaking Action**

R4-23-610	Amend
R4-23-672	Amend
R4-23-673	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 32-1904(A)(1) and (2)

Implementing statutes: A.R.S. §§ 32-1929, 32-1930, and 32-1931

3. The effective date of the rules:

December 4, 2004

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 10 A.A.R. 978, March 12, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 1845, May 7, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rules:

Name:	Dean Wright, Compliance Officer
Address:	Board of Pharmacy 4425 W. Olive Ave., Suite 140 Glendale, AZ 85302
Telephone:	(623) 463-2727, Ext. 131
Fax:	(623) 934-0583
E-mail:	rxcop@cox.net

6. An explanation of the rules, including the agency's reasons for initiating the rules:

The Board staff identified some minor changes for Sections R4-23-610, R4-23-672, and R4-23-673 to improve the clarity, conciseness, and understandability of the rules. The rules are being amended to make correct citations to other rules that have been recently amended. The proposed rules will replace the term "certified pharmacy technician" with the term "pharmacy technician trainee." The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the standards for community pharmacy personnel and security procedures and limited-service pharmacy permits.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The rules will impact the Board, pharmacists, and pharmacies. The amended rules' impact on the Board will be the usual rulemaking-related costs which are minimal. The amended rules will have no economic impact on pharmacists or pharmacies. The changes to the rules are cosmetic and simply improve the clarity, conciseness, and understandability of the rules. The amended rules have no economic impact on the public.

The public, Board, pharmacists, and pharmacies benefit from rules that are clear, concise, and, understandable. The amended rules benefit the public, the Board, and the pharmacy community by clearly establishing the standards for community pharmacy personnel and security procedures and limited-service pharmacy permits.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if appli-

cable):
There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

11. A summary of the comments made regarding the rules and the agency response to them:
No one attended the public hearing held on June 28, 2004, and no written or oral comments were received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable

13. Incorporations by reference and their location in the rules:
None

14. Were these rules previously approved as emergency rules?
No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section
R4-23-610. Community Pharmacy Personnel and Security Procedures
R4-23-672. Limited-service Correctional Pharmacy
R4-23-673. Limited-service Mail-order Pharmacy

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

R4-23-610. Community Pharmacy Personnel and Security Procedures

A. Every pharmacy shall have a pharmacist designated as the "pharmacist-in-charge."
1. The pharmacist-in-charge shall ensure the communication and compliance of Board directives to the management, other pharmacists, interns, and technicians of the pharmacy.
2. The pharmacist-in-charge shall:
   a. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are prepared and implemented;
   ~~a.~~b. ~~Conduct a biennial review and revision of~~ Review biennially and, if necessary, revise all pharmacy policies and procedures required under 4 A.A.C. 23~~.~~;
   c. Document the review required under subsection (A)(2)(b);
   d. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are assembled as a written manual or by another method approved by the Board or its designee; and
   ~~b.~~e. Make all pharmacy policies and procedures required under 4 A.A.C. 23 available in the pharmacy for employee reference and inspection by the Board or its designee.
~~3. The pharmacist-in-charge shall ensure that the ratio of technicians to pharmacists working in the pharmacy does not exceed the ratio in R4-23-403(C).~~

B. Personnel permitted in the pharmacy area of a community pharmacy include pharmacists, graduate interns, pharmacy interns, compliance officers, drug inspectors, peace officers acting in their official capacity, other persons authorized by law, pharmacy technicians, ~~certified~~ pharmacy ~~technicians~~ technician trainees, support personnel, and other designated personnel. Pharmacy interns, graduate interns, pharmacy technicians, ~~certified~~ pharmacy ~~technicians~~ technician trainees, support personnel, and other designated personnel shall be permitted in the pharmacy area only when a pharmacist is on duty, except in an extreme emergency as defined in R4-23-110.
1. The pharmacist-in-charge shall comply with the minimum area requirements as described in R4-23-609 for a community pharmacy and for compounding and dispensing counter area.
2. A pharmacist employed by a pharmacy shall ensure that the pharmacy is physically ~~and electronically~~ secure while the pharmacist is on duty.

C. In a community pharmacy, a pharmacist shall ensure that the pharmacy area, and any additional storage area for drugs that is restricted to access only by a pharmacist~~, except in an extreme emergency, shall be~~ is locked when a pharmacist is not present, except in an extreme emergency.

D. A pharmacist ~~shall be~~ is the only person permitted by the Board to unlock the pharmacy area or any additional storage area for drugs restricted to access only by a pharmacist, except in an extreme emergency.

E. ~~Prescription-only~~ A pharmacy permittee or pharmacist-in-charge shall ensure that any prescription-only drugs and con-

trolled substances received in an area outside the pharmacy area ~~shall be~~ are immediately transferred unopened to the pharmacy area. ~~Prescription only~~ The pharmacist-in-charge shall ensure that any prescription-only drug and controlled substance shipments ~~shall be~~ are opened and marked by pharmacy personnel in the pharmacy area under the supervision of a pharmacist, graduate intern, or pharmacy intern.

F. A pharmacy permittee or pharmacist-in-charge may provide a small opening or slot though which a written prescription order or prescription medication container to be refilled may be left in the prescription area ~~through a small opening or slot~~ when the pharmacist is not present.

G. ~~A pharmacist shall deliver prescription medication to the patient or secure prescription medication in the locked pharmacy when a pharmacist is not present. Prescription~~ A pharmacist shall ensure that prescription medication ~~shall~~ is not ~~be~~ left outside the prescription area or picked up by the patient when the pharmacist is not present by either:

1. Delivering the prescription medication to the patient, or
2. Securing the prescription medication inside the locked pharmacy.

R4-23-672. Limited-service Correctional Pharmacy

A. The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy complies with the standards for area, personnel, security, sanitation, equipment, drug distribution and control, administration of drugs, drug source, quality assurance, investigational drugs, and inspections as set forth in R4-23-608, R4-23-609(A) through (D) and (F) through (H), R4-23-610(A), R4-23-611, R4-23-612, ~~R4-23-653(D), except (2)(c)~~ R4-23-653(E), R4-23-658(B) through ~~(H)~~ (E), ~~and R4-23-660 through R4-23-664~~ R4-23-659, and R4-23-660.

B. The pharmacist-in-charge of a limited-service correctional pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, compliance officers, drug inspectors, peace officers, and correctional officers acting in their official capacities, ~~supportive~~ other persons authorized by law, support personnel, and other designated personnel to be in the limited-service correctional pharmacy.

C. When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have access to drugs in remote drug storage areas or, if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient, in the limited-service correctional pharmacy.

1. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that remote drug storage areas:
   a. Contain only properly labeled drugs that might reasonably be needed and can be administered safely during the ~~absence of a pharmacist~~ pharmacist's absence,
   b. Contain drugs packaged only in amounts sufficient for immediate therapeutic requirements,
   c. Are accessible only with a physician's written order,
   d. Provide a written record of each drug withdrawn,
   e. Are inventoried at least once each week, and
   f. Are audited for compliance with the requirements of this rule at least once each month.
2. The pharmacist-in-charge shall, in consultation with the appropriate committee of the correctional facility, develop and implement procedures to ensure that access to the limited-service correctional pharmacy when no pharmacist is on duty conforms to the following requirements:
   a. Is delegated to only one nurse, who is in a supervisory position;
   b. Is communicated in writing to medical staff of the correctional facility;
   c. Is delegated only to a nurse who has received training from the pharmacist-in-charge in proper methods of access, removal of drugs, and ~~records and~~ recordkeeping procedures ~~required~~; and
   d. Is delegated by the supervisory nurse to another nurse only in ~~emergencies~~ an emergency.
3. When a nurse to whom authority to access the limited-service correctional pharmacy is delegated removes a drug from the limited-service correctional pharmacy, the nurse shall:
   a. Record the following information on a form:
      i. Patient's name,
      ii. Name of the drug and its strength and dosage form,
      iii. Dose prescribed,
      iv. Amount of drug removed, and
      v. Date and time of removal;
   b. Sign the form recording the drug removal;
   c. Attach the original or a direct copy of a physician's written order for the drug to the form recording the drug removal; and
   d. Place the form recording the drug removal conspicuously in the limited-service correctional pharmacy.
4. Within four hours after a pharmacist in the limited-service correctional pharmacy returns to duty following an absence in which the limited-service correctional pharmacy was accessed by a nurse to whom authority had been delegated, the pharmacist shall verify all records of drug removal ~~in accordance with~~ according to R4-23-402.

D. When no pharmacist will be on duty in the correctional facility, the pharmacist-in-charge shall arrange, before there is no

pharmacist on duty, for the medical staff and other authorized personnel of the correctional facility to have telephone access to a pharmacist.

E. The limited-service pharmacy permittee shall ensure that the limited-service correctional pharmacy is not without a pharmacist on duty for ~~no~~ more than 96 consecutive hours.

F. In addition to the requirements of R4-23-671, the limited-service pharmacy permittee shall secure the limited-service correctional pharmacy ~~by conforming with the following standards~~ as follows:

1. Permit no one to be in the limited-service correctional pharmacy unless a pharmacist is on duty except:
   a. As provided in subsection (C)(3) when ~~no~~ a pharmacist is not on duty; or
   b. ~~Pharmacy technicians~~ A pharmacy technician or pharmacy technician trainee may remain to perform duties ~~outlined~~ in ~~R4-23-653(D)(2), except subsection (D)(2)(c)~~ R4-23-1104(A), when a pharmacist is on duty and available in the correctional facility but temporarily absent from the pharmacy, provided:
      i. ~~all~~ All controlled substances are secured in a manner that prohibits access by persons other than a pharmacist;
      ii. Activities performed by a pharmacy technician or pharmacy technician trainee while the pharmacist is temporarily absent are verified by the pharmacist immediately upon returning to the pharmacy;
      iii. Any drug measured, counted, poured, or otherwise prepared and packaged by a pharmacy technician or pharmacy technician trainee while the pharmacist is temporarily absent is verified by the pharmacist immediately upon returning to the pharmacy; and
      iv. Any drug that has not been verified by a pharmacist for accuracy is not dispensed, supplied, or distributed while the pharmacist is temporarily absent from the pharmacy; and
2. Provide keyed or programmable locks to all areas of the limited-service correctional pharmacy.

G. The pharmacist-in-charge of a limited-service correctional pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution within the correctional facility include the following:

1. Physicians' orders, prescription orders, or both;
2. Authorized abbreviations;
3. Formulary system;
4. Clinical services and drug utilization management including:
   a. Participation in drug selection,
   b. Drug utilization reviews,
   c. Inventory audits,
   d. Patient outcome monitoring,
   e. Committee participation,
   f. Drug information, and
   g. Education of pharmacy and other health professionals;
5. Duties and qualifications of professional and support staff;
6. Products of abuse and contraband medications;
7. Controlled substances;
8. Drug administration;
9. Drug product procurement;
10. Drug compounding, dispensing, and storage;
11. Stop orders;
12. ~~Pass/Discharge~~ Pass or discharge medications;
13. Investigational drugs and their protocols;
14. Patient profiles;
15. Quality management procedures for:
    a. Adverse drug reactions;
    b. Drug recalls;
    c. Expired and beyond-use-date drugs;
    d. Medication or dispensing errors;
    e. Drug storage; and
    f. Education of professional staff, support staff, and patients;
16. Recordkeeping;
17. Sanitation;
18. Security;
19. Access to remote drug storage areas by non-pharmacists; and
20. Access to limited-service correctional pharmacy by non-pharmacists.

R4-23-673. Limited-service Mail-order Pharmacy

A. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:

1. A dispensing area devoted to stocking, compounding, and dispensing prescription medications, which is physically separate from a non-dispensing area devoted to non-dispensing pharmacy services;
2. A dispensing area of at least 300 square feet if three or fewer persons work in the dispensing area simultaneously;
3. A dispensing area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the dispensing area simultaneously;
4. Space in the dispensing area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist;
5. A non-dispensing area of at least 30 square feet for each person working simultaneously in the non-dispensing area; and
6. Space in the non-dispensing area permits free movement of personnel and visual surveillance by the pharmacist; or

B. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
1. A contiguous area in which both dispensing and non-dispensing pharmacy services are provided;
2. A contiguous area of at least 300 square feet if three or fewer persons work in the area simultaneously;
3. A contiguous area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the area simultaneously; and
4. Space in the contiguous area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist.

C. The limited-service pharmacy permittee shall ensure that the limited-service mail-order pharmacy complies with the standards for area, personnel, security, sanitation, and equipment set forth in R4-23-608, R4-23-609(B) through (H), R4-23-610 (A) and (C) through (F), R4-23-611, and R4-23-612.

D. The pharmacist-in-charge of a limited-service mail-order pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, compliance officers, drug inspectors, peace officers acting in their official capacities, support personnel, other persons authorized by law, and other designated personnel to be in the limited-service mail-order pharmacy.

E. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.

F. In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation but not less than five days and a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service mail-order pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container of drugs dispensed from the limited-service mail-order pharmacy.

G. The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution include the following:
1. Prescription orders;
2. Clinical services and drug utilization management for:
   a. Drug utilization reviews,
   b. Inventory audits,
   c. Patient outcome monitoring,
   d. Drug information, and
   e. Education of pharmacy and other health professionals;
3. Duties and qualifications of professional and support staff;
4. Controlled substances;
5. Drug product procurement;
6. Drug compounding, dispensing, and storage;
7. Patient profiles;
8. Quality management procedures for:
   a. Adverse drug reactions,
   b. Drug recalls,
   c. Expired and beyond-use-date drugs,
   d. Medication or dispensing errors, and
   e. Education of professional and support staff;
9. Recordkeeping;
10. Sanitation;
11. Security;
12. Drug delivery requirements for:
    a. Transportation,
    b. Security,
    c. Temperature and other environmental controls,

d. Emergency provisions, and
13. Patient education.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 1. RADIATION REGULATORY AGENCY

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R12-1-102	Amend
R12-1-206	Amend
R12-1-319	Amend
R12-1-324	New Section
R12-1-424	Amend
R12-1-425	Amend
R12-1-501	Amend
R12-1-518	New Section
R12-1-523	Amend
R12-1-603	Amend
R12-1-609	Amend
R12-1-614	Amend
R12-1-905	Amend
R12-1-1504	Amend
R12-1-1506	Amend
R12-1-1716	Amend
R12-1-1720	Repeal
R12-1-1720	New Section
R12-1-1721	Amend
R12-1-1723	Amend
R12-1-1742	Amend
R12-1-1743	Amend

2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statutes (specific):

Authorizing statutes: A.R.S. §§ 30-654(B), 30-673

Implementing statutes: A.R.S. §§ 30-657, 30-672(J), 30-672.01

3. The effective date of the rules:

December 4, 2004

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 9 A.A.R. 3385, August 1, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 5218, December 5, 2003
Notice of Rulemaking Docket Opening: 9 A.A.R. 5478, December 19, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 5364, December 19, 2003
Notice of Public Information: 10 A.A.R. 63, January 2, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Daniel H. Kuhl

Address: Arizona Radiation Regulatory Agency
4814 S. 40th St.
Phoenix, AZ 85040

Telephone: (602) 255-4845, ext. 233

Fax: (602) 437-0705

E-mail: dkuhl@arra.state.az.us

6. An explanation of the rules, including the agency's reasons for initiating the rules:

Two definitions in R12-1-102 are being amended to be consistent with Nuclear Regulatory Commission (NRC) standards. The definitions are used to understand the requirements in Title 12. R12-1-206 is being amended to update an incorporated reference that will effect all users of x-ray machines. R12-1-319 is amended to include NRC standards

that must be met when terminating a radioactive material license, and in R12-1-324 the licensee will be required to involve the public when a licensed program is terminated or a decommissioning plan is needed. R12-1-424 and R12-1-425 are being amended to include new NRC standards for persons using respiratory protection when handling or working with forms of radioactive material that are inhalable. Industrial radiography operations will be affected by the changes to R12-1-501 and R12-1-523, which are being amended to include new definitions and personnel monitoring standards respectively. Both of these rule amendments and the new labeling, storage, and transportation requirements in R12-1-518 are made as required by the Agreement that Arizona has with the NRC. R12-1-603, R12-1-609, and R12-1-614 are amended to include changes affecting healing arts x-ray users. The changes were requested during the public comment period for a previous Agency rulemaking, RMP-054, which became final rule in June of 2003. The changes could not be made at that time because the changes would have result in substantial changes to the existing RMP-0054 rule package. The changes are clearly evident in the affected rules; a discussion of the requested changes are part of the Agency records for RMP-0054 and are available for public review. R12-1-905 is amended to change the record retention requirement for particle accelerators to three years which is the standard throughout the Agency's rules. No doubt there are some rules that may contain a different duration, however, the Agency has not had time to correct all of the time-frame discrepancies. R12-1-1504 and R12-1-1506 are amended to incorporate current federal transportation regulations. These incorporations are required by the NRC. Six rules contained in Article 17 are being amended to include NRC standards in 10CFR 39. Article 17 regulates well logging and wireline activities.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

There should not be any significant economic impact as a result of the implementation of the proposed amendments. The benefits from the amendments are increased public safety from the safe use, transport, storage, and disposal of radiation sources.

The Arizona Radiation Regulatory Agency (ARRA) should not experience an increase in its cost of operation as a result of implementing the rule amendments. Other agencies and political subdivisions possessing radiation sources should not experience an increase in their cost of operation as result of implementing the rule amendments. The current mix of Arizona businesses possessing radiation sources should not experience an increase in their cost of operation as a result of implementing the rule amendments. The cost, if any, will be passed on to businesses that use the services of the licensees and registrants.

There is one potential exception to the cost estimates listed above: the radioactive material license termination requirements proposed in Article 3. If a licensee, using radioactive material in a high hazard category, should go out of business leaving a job site contaminated with radioactive material, the state of Arizona could be left with the cost of cleaning up the site and returning it to unrestricted use. The Agency is aware of the licensees having the greatest potential for an adverse economic impact on the state's financial well-being. At this time only two licensees, the University of Arizona and Arizona State University have been required to address decommissioning issues. The universities are self funded by the state. To preclude a financial difficulty at the time of termination, the previously adopted decommissioning requirements in R12-1-323 must be met during the license application process. The two rules involved R12-1-319 and R12-1-324 will list the procedures that must be followed before the Agency will grant a license termination, and other regulatory entities that should be notified of a pending termination are listed so that other potential safety issues can be addressed, if need be. The cost of the new termination requirements is small compared to the cost of addressing the concerns associated with the type, quantity, and form of radioactive material that sets the basis for the cost of a decommissioning plan. As stated earlier these new rules are required by the NRC and the state has little say in how the rules will be implemented and potential associated costs.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Very few changes were made as result of the comments received during the public hearing. Only spelling and grammatical changes were offered by the Board and the Governor's Regulatory Review Council (G.R.R.C.). No public comments were received. Other changes were made to make the rules in this package consistent with the other rules that were recently amended in RMP-0056, approved by the G.R.R.C. in April. Other changes are made as a result of staff review. None of the changes are substantive in nature. Noteworthy changes are listed as follows:

1. A definition for "individual monitoring equipment" was added to R12-1-102 in RMP-0056.

2. The heading for Article 5 changes to the language listed as the amended heading for Article 5 in RMP-0056.

3. R12-1-523 was amended in its entirety in RMP-0056, which was recently approved by G.R.R.C. Therefore, to get the current language requested by the Nuclear Regulatory Commission, the rule is amended in its entirety again in this package with the deletion of "registrant" throughout the rule. The rules regulating x-ray radiography registrants

have been moved to Article 11 in RMP-0056. To complete this rulemaking, the new R12-1-523 introduced into the code in RMP-0056 must be repealed at this time; It was not in the code when this package was started.

(Old from RMP-0056, in current Code)

~~**A.** An individual shall not act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and either a film badge, a TLD, or an optically stimulated luminescence (OSL) dosimeter. At permanent radiography installations where other required alarming or warning devices are in routine use, an alarm rate meter is not required.~~

~~1. A licensee shall provide pocket dosimeters that have a range from zero to 2 millisieverts (200 millirems) and ensure that the dosimeters are recharged at the start of each shift. Electronic personal dosimeters are permitted in place of ion-chamber pocket dosimeters.~~

~~2. The licensee shall assign a film badge, TLD, and OSL dosimeter to one individual, who will wear the assigned equipment.~~

~~3. The licensee shall replace film badges at least monthly and replace TLDs or OSL dosimeters at least quarterly.~~

~~4. After replacement, the licensee shall ensure that each film badge or TLD is processed as soon as possible.~~

~~**B.** A radiographer or radiographer's assistant shall record exposures noted from direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters at the beginning and end of each shift.~~

~~**C.** A licensee shall ensure that each pocket dosimeters, or electronic personal dosimeters is checked at least yearly for correct response to radiation, and discontinue use if a dosimeter if it is not accurate within plus or minus 20% of the true radiation exposure.~~

~~**D.** If an individual's pocket dosimeter has an off-scale reading, or the electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause. A licensee shall send the individual's film badge, TLD, or OSL dosimeter for processing within 24 hours. The licensee shall not allow the individual to work with licensed radioactive material until the individual's radiation exposure has been determined. Using the information from the badge or dosimeter, the RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure, as prescribed in Article 4 of this Chapter and include the results in records maintained in accordance with subsection (G).~~

~~**E.** If an Agency-approved individual monitoring device is lost or damaged, the worker shall cease work immediately until the licensee provides a replacement film badge, TLD, or OSL dosimeter is provided and RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of a lost or damaged film badge, TLD, or OSL dosimeter. The licensee shall include the calculated exposure and the time period for which the film badge, TLD, or OSL dosimeter was lost or damaged in the records maintained in accordance with subsection (G).~~

~~**F.** For each alarm rate meter a licensee shall ensure that:~~

~~1. At the start of a shift that the alarm functions (sounds) before using the device.~~

~~2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20% of the true radiation dose rate;~~

~~3. A special means is necessary to change the preset alarm function on the device; and~~

~~4. Each device Is calibrated at periods not to exceed 12 months for correct response to radiation.~~

~~**G.** Each licensee shall maintain the following personnel monitoring records:~~

~~1. Each dosimeter reading and the yearly operability check required by subsections (B) and (C) for three years after each record is made.~~

~~2. A record of each alarm rate meter calibration for three years after the record is made.~~

~~3. Any report received from the film badge, TLD, or OSL processor. The licensee shall maintain records until the Agency terminates the license.~~

~~4. Any estimation of an exposure resulting from off-scale personal direct-reading dosimeters or lost or damaged film badges, TLDs, or OSL dosimeters. The records shall be maintained until the Agency terminates the license.~~

(Old from RMP-0058, in Code when package was started)

~~**A.** A licensee or registrant shall not permit any individual to act as a radiographer or as a radiographer's assistant unless, at all times during radiographic operations, each individual wears on the trunk of the body a direct reading pocket dosimeter, a film badge or a thermoluminescent dosimeter (TLD), and an alarm rate meter at all times during radiographic operations. For permanent radiographic installations where other appropriate alarm warning devices are in routine use, the wearing of an alarm rate meter is not required.~~

~~**B.** Pocket Dosimeters:~~

~~1. Pocket dosimeters shall:~~

~~a. Meet the criteria in American National Standards Publication N13.5 1972, "Performance Specifications For Direct Reading and Indirect Reading Pocket Dosimeters for X- and Gamma Radiation," 1972 Edition, published December 9, 1971, by the American National Standards Institute, incorporated by reference and on file with the~~

~~Agency and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. The incorporated material may be purchased from the American National Standards Institute, Inc. 1430 Broadway, New York, New York, 10018.~~

~~b. Have a range of 0 to 2 millisieverts (200 mRem).~~

~~2. Pocket dosimeters shall be recharged at the start of each work shift.~~

~~3. At a minimum, pocket dosimeters shall be recharged and initial use readings recorded:~~

~~a. Immediately before checking out any source of radiation from an authorized storage location for the purpose of conducting industrial radiography operations; and~~

~~b. Before beginning radiographic operations on any subsequent calendar day (if the source of radiation has not been checked back into an authorized storage location).~~

~~4. If radiographic operations are concluded for the day, final use readings on pocket dosimeters shall be recorded and the accumulated occupational doses for that day determined and recorded.~~

~~5. If an individual's pocket dosimeter is discharged beyond its range (for example, goes "off scale"), industrial radiography operations by that individual shall be discontinued until the individual's film badge or TLD has been processed. The individual shall not return to work with sources of radiation until a determination of the individual's radiation exposure has been made.~~

~~6. Pocket dosimeters shall be checked for correct response to radiation at periods not to exceed 1 year. Acceptable dosimeters shall read within plus or minus 20% of the true radiation exposure. Records of pocket dosimeter response shall be maintained for three years after the record is made.~~

~~7. Records of pocket dosimeter readings of personnel exposure shall be maintained for two years after the record is made. If the dosimeter readings were used to determine external radiation dose (for example, no film badge or TLD exposure records exist), the records shall be maintained according to R12-1-419.~~

~~**C.** Film badges and TLDs:~~

~~1. Each film badge or TLD shall be assigned to and worn by only 1 individual.~~

~~2. Film badges and TLDs shall be replaced monthly. After replacement, each film badge or TLD shall be returned to the supplier for processing within 14 calendar days of the exchange date specified by the personnel monitoring supplier. If a film badge or TLD cannot be processed in 14 days, the circumstances resulting in the delay shall be documented and available for Agency review.~~

~~3. If a film badge or TLD is lost or damaged, the worker affected shall cease work immediately until a replacement film badge or TLD is provided and the exposure is calculated for the time period from issuance to loss or damage.~~

~~4. Records of film badge or TLD personnel monitoring shall be maintained according to R12-1-419.~~

~~**D.** Alarm rate meters:~~

~~1. Each alarm rate meter shall be tested to ensure that the audible alarm functions properly before use at the start of each work shift.~~

~~2. Each alarm rate meter shall be set to give an alarm at a preset dose rate of 5 millisieverts/hr (500 mRem/hr).~~

~~3. Each alarm rate meter shall require special means to change the preset alarm function.~~

~~4. Each alarm rate meter shall be calibrated at periods not to exceed one year for correct response to radiation. Acceptable rate meters shall give an alarm within plus or minus 20% of the true radiation dose rate.~~

~~5. Records of alarm rate meter calibration shall be maintained for two years for Agency inspection from the date the record is made.~~

(Change from proposed rule in RMP-0058)

A. A licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarm rate meter is not required. A licensee shall:

1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirems). The licensee shall ensure that each dosimeter is recharged at the start of each shift. Electronic personal dosimeters are permitted in place of ion-chamber pocket dosimeters.
2. Assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
3. Replace film badges at least monthly and ensure that other personnel dosimeters are processed and evaluated by an accredited NVLAP processor and replaced at periods that do not exceed three months.
4. After replacement, ensure that each personnel dosimeter is processed as soon as possible.

B. A licensee shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personal dosimeters, at the beginning and end of each shift. The licensee shall maintain the records for three years after the Agency terminates the license.

C. A licensee shall check pocket dosimeters and electronic personal dosimeters for correct response to radiation at periods that do not exceed 12 months. The licensee shall record the results of each check and maintain the records for three years

after the dosimeter check is performed. The licensee shall discontinue use of a dosimeter if it is not accurate within plus or minus 20 percent of the true radiation exposure.

D. If an individual's pocket dosimeter has an off-scale reading, or if the individual's electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a licensee shall process the individual's dosimeter within 24 hours of the suspect exposure. The licensee shall not allow the individual to resume work associated with sources of radiation until the individual's radiation exposure has been determined. Using information from the dosimeter, the licensee's RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure as prescribed in Article 4 of this Chapter and include the results of this determination in the personnel monitoring records maintained in accordance with subsection (B).

E. If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee shall ensure that the worker ceases work immediately until the licensee provides a replacement personnel dosimeter that meets the requirements in subsection (A) and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of the lost or damaged personnel dosimeter. The licensee shall maintain a record of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).

F. The licensee shall maintain dosimetry reports received from the accredited NVLAP personnel dosimeter processor in accordance with subsection (B).

G. For each alarm rate meter a licensee shall ensure that:

1. At the start of each shift the alarm functions (sounds) properly before an individual uses the device;
2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
3. A special means is necessary to change the preset alarm function on the device; and
4. Each device is calibrated at periods that do not exceed 12 months for correct response to radiation. The licensee shall maintain records of alarm rate meter calibrations in accordance with subsection (B).

4. R12-1-1723 was amended in its entirety in RMP-0056, Which was recently approved by G.R.R.C. Therefore, to get the current language requested by the Nuclear Regulatory Commission, the rule is amended in its entirety again in this package. To complete this rulemaking, the new R12-1-1723 introduced into the code in RMP-0056 must be amended at this time; It was not in the code when this package was started.

(Proposed rule in RMP-0058)

A. A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.

B. A licensee shall assign a personnel dosimeter to each individual who shall wear the assigned equipment.

C. A licensee shall replace film badges at least monthly and replace other personnel dosimeters at least quarterly. After replacement, a licensee shall promptly process each personnel dosimeter.

D. A licensee shall provide bioassay services to each individual who uses licensed materials in subsurface tracer studies if required by the license.

E. A licensee shall record exposures noted from personnel dosimeters required by subsection (A) and bioassay results and maintain these records for three years after the Agency terminates the radioactive material license.

(Old, from RMP-0056, current code)

~~**A.** A licensee shall not permit an individual to act as a logging supervisor or logging assistant or assist in handling sources of radiation unless the licensee provides the individual with monitoring devices in accordance with R12-1-419.~~

~~**B.** If the level of exposure to an individual using licensed radioactive material in subsurface tracer studies exceeds exposure limits in Article 4, the licensee shall provide a bioassay for the individual.~~

~~**C.** The licensee shall maintain personnel monitoring records according to R12-1-419(E).~~

(Old, from RMP-0058; in the code when package was started))

~~**A.** A licensee may not permit an individual to act as a logging supervisor or logging assistant unless that person is provided personnel dosimetry in accordance with R12-1-419.~~

~~**B.** The licensee shall provide bioassay services to individuals using licensed radioactive material in subsurface tracer studies, if required by license condition.~~

~~**C.** Personnel monitoring records shall be maintained in accordance with R12-1-419(C).~~

5. One change had to be made regarding incorporated references:
   The incorporated Parts of 49 CFR in R12-1-1504 had to be changed because the previously listed Parts are no longer included. What used to be 170-189 is now 171-180. In relation to this change, an incorporated federal standard in R12-1-1506 had to be changed to agree with the new federal incorporation listing in R12-1-1504.

11. A summary of the comments made regarding the rules and the Agency response to them:

No written comments were received from the public. Likewise, during the public hearing no comments were received from the public participants. However, the Agency Board and the G.R.R.C. have offered a number of suggestions concerning punctuation and grammatical corrections. Some of the comments received require some elaboration to describe the changes made to the rule package.

1. Dr. Woolfenden had concern for the terms "fit factor" followed by [ge], and "APF" in R12-1-425(A)(3)(f). Both of these terms are defined at the beginning of Article 4, and [ge] was incorrectly placed in the source document for this symbol "≥".

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Any material incorporated by reference and its location in the text:

Rule	Incorporation
R12-1-206	21 CFR 1020.30(d)(1)
R12-1-319(E)(5)	10 CFR 30.35(g)
R12-1-425(A)(7)	29 CFR 1910.134(i)(1)(ii)(A) through (E)
R12-1-518(B)	10 CFR 71
R12-1-1504(A)(1) and (2)	49 CFR 171 through 180
R12-1-1506(1)	49 CFR 171 through 180
39 CFR 111.1	

14. Were the rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 1. RADIATION REGULATORY AGENCY

ARTICLE 1. GENERAL PROVISIONS

Section
R12-1-102. Definitions

ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES

Section
R12-1-206. Assembly, Installation, Removal from Service, and Transfer

ARTICLE 3. RADIOACTIVE MATERIAL LICENSING

Section
R12-1-319. Modification, Revocation, and Termination of Licenses
R12-1-324. Public Notification and Public Participation

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

Section
R12-1-424. Use of Other Controls
R12-1-425. Use of Individual Respiratory Protection Equipment

ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY

Section
R12-1-501. Definitions
R12-1-518. Labeling, Storage, and Transportation
R12-1-523. Personnel Monitoring

ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS

Section
R12-1-603. Operational Standards, Shielding, and Darkroom Requirements
R12-1-609. Chest Photofluorographic Systems
R12-1-614. Mammography

ARTICLE 9. PARTICLE ACCELERATORS

Section
R12-1-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks

ARTICLE 15. TRANSPORTATION

Section
R12-1-1504. Intrastate Transportation and Storage of Radioactive Materials
R12-1-1506. Preparation of Radioactive Material for Transport

ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES

Section
R12-1-1716. Inventory
R12-1-1720. ~~Inspection and Maintenance~~ Inspection, Maintenance, and Opening of a Source or Source Holder
R12-1-1721. Training ~~Requirements~~
R12-1-1723. Personnel Monitoring
R12-1-1742. Documents and Records Required at Field Stations
R12-1-1743. Documents and Records Required at Temporary Job Sites

ARTICLE 1. GENERAL PROVISIONS

R12-1-102. Definitions

Terms defined in A.R.S. § 30-651 have the same meanings when used in this Chapter. The following terms have the definitions below. Additional subject specific definitions are used in other Articles.

"A_1" No change
"A_2" No change
"Absorbed dose" No change
"Accelerator" No change
"Accelerator produced material" No change
"Act" No change
"Activity" No change
"Adult" No change
"Agency", or "ARRA" No change
"Agreement State" means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under Section 274(b) of the Atomic Energy Act of 1954, as amended (73 Stat. 689). Nonagreement State means any other State.
"Airborne radioactive material" No change
"Airborne radioactivity area" No change
"ALARA" No change
"Analytical x-ray equipment" No change
"Analytical x-ray system" No change
"Annual" No change
"Background radiation" means ~~radiation from cosmic sources; not technologically enriched naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material less than 10 times the quantities listed in Article 4, Appendix B, Table II; and global fallout as it exists in the environment from the testing of nuclear explosive devices. "Background radiation" does not include sources of radiation from radioactive materials regulated by the Agency.~~ radiation from cosmic sources; not technologically enhanced naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents, such as Chernobyl, that contribute to background radiation and are not under the control of a licensee. "Background radiation" does not include sources of radiation regulated by the Agency.
"Becquerel" No change
"Bioassay" No change
"Brachytherapy" No change

"Byproduct material" No change
"Calendar quarter" No change
"Calibration" No change
"Certifiable cabinet x-ray system" No change
"Certified cabinet x-ray system" No change
"CFR" No change
"Chelating agent" No change
"Civil penalty" No change
"Collective dose" No change
"Committed dose equivalent" No change
"Committed effective dose equivalent" No change
"Curie" No change
"Current license or registration" No change
"Deep-dose equivalent" No change
"Depleted uranium" No change
"Dose" No change
"Dose equivalent (H_T)" No change
"Dose limits" No change
"Dosimeter" No change
"Effective dose equivalent (H_E)" No change
"Effluent release" No change
"Embryo/fetus" No change
"Enclosed beam x-ray system" No change
"Enclosed radiography" No change
    "Cabinet radiography" No change
    "Shielded room radiography" No change
"Entrance or access point" No change
"Exhibit" No change
"Explosive material" No change
"Exposure" No change
"Exposure rate" No change
"External dose" No change
"Extremity" No change
"Fail-safe characteristics" No change
"Field radiography" No change
"Field station" No change
"Former U.S. Atomic Energy Commission (AEC)
or U.S. Nuclear Regulatory Commission (NRC)
licensed facilities" No change
"Generally applicable environmental radiation standards" No change
"Gray" No change
"Hazardous waste" No change
"Healing arts" No change
"Health care institution" No change
"High radiation area" No change
"Human use" No change
"Impound" No change
"Individual" No change
"Individual monitoring" No change
"Individual monitoring device" No change
"Individual monitoring equipment" No change
"Industrial radiography" No change
"Injection tool" No change
"Inspection" No change
"Interlock" No change
"Internal dose" No change
"Irradiate" No change
"Laser" No change
"Lens dose equivalent" No change

"License" No change
"Licensed material" No change
"Licensed practitioner" No change
"Licensee" No change
"Licensing State" No change
"Limits" No change
"Local components" No change
"Logging supervisor" No change
"Logging tool" No change
"Lost or missing licensed or registered source of radiation" No change
"Low-level waste" No change
"Major processor" No change
"Medical dose" No change
"Member of the public" No change
"MeV" No change
"Mineral logging" No change
"Minor" No change
"Monitoring" No change
"Multiplier" No change
"NARM" No change
"Normal operating procedures" No change
"Natural radioactivity" No change
"NRC" No change
"Nuclear waste" No change
"Occupational dose" No change
"Open beam system" No change
"Package" No change
"Particle accelerator" No change
"Permanent radiographic installation" No change
"Personnel dosimeter" No change
"Personnel monitoring equipment" No change
"Personal supervision" No change
"Pharmacist" No change
"Physician" No change
"Primary beam" No change
"Public dose" No change
"Pyrophoric liquid" No change
"Pyrophoric solid" No change
"Qualified expert" No change
"Quality Factor" No change
"Quarter" No change
"Rad" No change
"Radiation" No change
"Radiation area" No change
"Radiation dose" No change
"Radiation machine" No change
"Radiation safety officer" No change
"Radioactive marker" No change
"Radioactive material" No change
"Radioactivity" No change
"Radiographer" No change
"Radiographer's assistant" No change
~~"Radiographic exposure device" means any instrument containing a sealed source, in which the sealed source or its shielding may be moved or otherwise changed from a shielded to unshielded position for purposes of making an industrial radiographic exposure.~~
"Registrant" No change
"Registration" No change
"Regulations of the U.S. Department of Transportation" No change
"Rem" No change

"Research and Development" No change
"Restricted area" No change
"Roentgen" No change
"Safety system" No change
"Sealed source" No change
"Shallow dose equivalent" No change
"Shielded position" No change
"Sievert" No change
"Site boundary" No change
"Source changer" No change
"Source holder" No change
"Source material" No change
"Source material milling" No change
"Source of radiation" or "source" No change
"Special form radioactive material" No change
"Special nuclear material in quantities not sufficient to form a critical mass" No change
"Storage area" No change
"Storage container" No change
"Subsurface tracer study" No change
"Survey" No change
"TEDE" No change
"Teletherapy" No change
"Temporary job site" No change
"Test" No change
"These rules" No change
"Total Effective Dose Equivalent" (TEDE) No change
"Total Organ Dose Equivalent" (TODE) No change
"Unrefined and unprocessed ore" No change
"Unrestricted area" No change
"U.S. Department of Energy" No change
"Waste" No change
"Waste handling licensees" No change
"Week" No change
"Well-bore" No change
"Well-logging" No change
"Whole body" No change
"Wireline" No change
"Wireline service operation" No change
"Worker" No change
"WL" No change
"WLM" No change
"Workload" No change
"Year" No change

ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES

R12-1-206. Assembly, Installation, Removal from Service, and Transfer

A. No change
1. No change
2. No change
3. No change

B. No change

C. In the case of diagnostic x-ray systems that contain certified components, an assembler shall submit to the Agency a copy of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in ~~21 CFR 1020.30(d), 2000 Edition, published April 1, 2000~~ 21 CFR 1020.30(d)(1), April 1, 2004, published by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference, and on file with the Agency, containing no future editions or amendments, within 15 days following completion of the assembly. The report shall suffice in lieu of any other report by the assembler, if it contains the information required in ~~subsection (A)(2)~~ subsection A.

D. No change

ARTICLE 3. RADIOACTIVE MATERIAL LICENSING

R12-1-319. Modification, Revocation, or Termination of a License

A. No change
B. No change
C. No change
D. No change
E. Specific licenses, including expired licenses, continue in effect until terminated by written notice to the licensee, when the Agency determines that the licensee has:
1. Properly disposed of all radioactive material;
2. Made a reasonable effort to eliminate residual radioactive contamination, if present;
3. Performed an accurate radiation survey that demonstrates the premises are suitable for release in accordance with the criteria for decommissioning in R12-1-323;
4. Submitted other information that is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R12-1-323.
5. Provided records to the Agency that detail the disposal of all radioactive material in unsealed form with a half-life greater than 120 days, and copies of the records required by 10 CFR 30.35(g), January 1, 2004, which is incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments.

R12-1-324. Public Notification and Public Participation

Upon the receipt of a license termination plan (LTP) or decommissioning plan from a licensee, or a proposal by a licensee for decommissioning of a site in accordance with R12-1-451 and R12-1-452, or for other events when the Agency deems a notice to be in the public interest, the Agency shall:
1. Notify and solicit comments from:
   a. State and local governments and any Indian Nation or other indigenous people who have legal rights that could be affected by the decommissioning; and
   b. The Arizona Department of Environmental Quality for cases in which the licensee proposes to decommission a site in accordance with R12-1-452.
2. Publish the notice in the Arizona Administrative Register and use other methods of publication such as local newspapers, letters to local organizations, or any other method that is reasonably calculated to provide notice, and solicit comments from affected parties.

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

R12-1-424. Use of Other Controls

A. ~~When~~ If it is not practical to apply process or other engineering controls to control concentrations of radioactive material in the air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent according to R12-1-407(B), increase monitoring and limit intakes by one or more of the following means:
1. Control access,
2. Limit exposure times,
3. Use respiratory protection equipment, or
4. Use other controls.

B. If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee shall also consider the impact of respirator use on workers' industrial health and safety.

R12-1-425. Use of Individual Respiratory Protection Equipment

~~**A.** If a licensee uses respiratory protection equipment to limit intakes according to R12-1-424:~~
~~1. Except as provided in subsection (A)(2), the licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration (NIOSH/MSHA).~~
~~2. If the licensee wishes to use equipment that has not been tested or certified by NIOSH/MSHA, or for which there is no schedule for testing or certification, the licensee shall submit an application for authorized use of the equipment, including a demonstration by testing, or a demonstration on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.~~
~~3. The licensee shall implement and maintain a respiratory protection program that includes:~~
~~a. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures;~~
~~b. Surveys and bioassays, as appropriate, to evaluate actual intakes;~~

~~c. Testing of respirators for operability immediately before each use;~~
~~d. Written procedures regarding selection, fitting, issuance, maintenance, and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and record keeping: and~~
~~e. Determination by a physician that each individual user is physically fit to use respiratory protective equipment:~~
~~i. Before the initial fitting of a face-sealing respirator with a tight-fitting face piece;~~
~~ii. Before the first field use of non-face sealing respirator without a tight-fitting face piece, and~~
~~iii. Every 12 months after initial fitting or first use, or periodically, at a frequency determined by the physician.~~
~~4. The licensee shall issue a written policy statement on respirator usage covering:~~
~~a. The use of process or other engineering controls, instead of respirators;~~
~~b. The routine, nonroutine, and emergency use of respirators; and~~
~~c. The length of periods of respirator use and relief from respirator use.~~
~~5. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require relief from respirator use.~~
~~6. The licensee shall use respiratory protection equipment within the equipment manufacturer's expressed limitations for type and mode of use and shall provide proper visual, communication, and other special capabilities, such as adequate skin protection, when needed.~~

~~**B.** When estimating exposure of individuals to airborne radioactive materials, the licensee may take credit for respiratory protection equipment used to limit intakes as allowed in R12-1-424, provided that the following conditions, in addition to those in subsection (A), are satisfied:~~
~~1. The licensee selects respiratory protection equipment from Appendix A, that provides a protection factor that will afford the user protection from the peak concentration of airborne radioactive material and requires its use when peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in Appendix B, Table I, Column 3. However, if the selection of respiratory protection equipment, with a protection factor greater than the peak concentration, is inconsistent with the goal of maintaining the total effective dose equivalent ALARA as specified in R12-1-407(B), a licensee may select respiratory protection equipment with a lower protection factor, provided the equipment selection and other controls authorized in R12-1-424 result in a total effective dose equivalent that is ALARA as specified in R12-1-407(B). The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in the air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than initially estimated, the corrected value shall be used; if the exposure is later found to be less than initially estimated, the corrected value may be used.~~
~~2. The licensee shall obtain authorization from the Agency before assigning respiratory protection factors in excess of those specified in Appendix A. The Agency may authorize a licensee to use higher protection factors on receipt of an indication that:~~
~~a. Describes the situation for which a need exists for higher protection factors, and~~
~~b. Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.~~

~~**C.** In an emergency, the licensee shall use as emergency equipment only respiratory protection equipment that has been specifically certified or has certification for emergency use by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration NIOSH/MSHA.~~

~~**D.** A licensee shall apply to the Agency for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:~~
~~1. State the reason for the higher protection factors; and~~
~~2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.~~

~~**E.** The licensee shall notify the Agency in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (B).~~

A. If a licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,
1. Except as provided in subsection (A)(2), the licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH).
2. If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the Agency and request authorization for use of this equipment, except as otherwise provided in this Section. The licensee shall provide evidence with the application that the material and performance characteristics of the equipment provide the asserted degree of protection under anticipated conditions of use. The licensee shall demonstrate the degree of protection by providing reliable test information.
3. The licensee shall implement and maintain a respiratory protection program that includes:

a. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;
b. Surveys and bioassays, as necessary, to evaluate actual intakes;
c. Testing of respirators for operability (user seal check for face sealing devices and functional check for other devices) immediately before each use;
d. Written procedures regarding:
i. Monitoring, including air sampling and bioassays;
ii. Supervision and training of respirator users;
iii. Fit testing;
iv. Respirator selection;
v. Breathing air quality;
vi. Inventory and control;
vii. Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;
viii. Record keeping; and
ix. Limitations on periods of respirator use and relief from respirator use;
e. Determination by a physician that each individual user is able to use respiratory protection equipment:
i. Before the initial fitting of a face-sealing respirator;
ii. Before the first field use of a non-face-sealing respirator, and
iii. Every 12 months after initial fitting or first use, or periodically at a frequency determined by a physician.
f. Fit testing, with a fit factor ≥ 10 times the APF for a negative pressure device and a fit factor ≥ 500 for any positive pressure, continuous flow, and pressure-demand device, before the first field use of tight-fitting, face-sealing respirators and periodically after first use at least yearly. The licensee shall perform fit testing with the face piece operating in the negative pressure mode.

4. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use, in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other condition that might require relief.
5. The licensee shall consider manufacturer limitations regarding respirator type and mode of use. When selecting a respiratory device, the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee shall use equipment in a manner that does not interfere with the proper operation of the respirator.
6. The licensee shall provide standby rescue persons whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The licensee shall equip standby rescue persons with respiratory protection devices or other apparatus designed for potential hazards and anticipated conditions of use. The standby rescue persons shall observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. The licensee shall provide at least one standby rescue person for every five workers, who is immediately available to assist any worker using this type of equipment and provide effective emergency rescue if needed.
7. The licensee shall supply atmosphere-supplying respirators with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997 and included in the regulations of OSHA (29 CFR 1910.134(i)(1)(ii)(A) through (E), July 1, 2003, incorporated by reference and on file with the Agency, containing no future editions or amendments). Grade D quality air criteria include:
a. Oxygen content (v/v) of 19.5-23.5%;
b. Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
c. Carbon monoxide (CO) content of 10 ppm or less;
d. Carbon dioxide content of 1,000 ppm or less; and
e. Lack of noticeable odor.
8. The licensee shall ensure that no objects, materials, or substances, such as facial hair, or any conditions that interfere with the face-to-face piece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator face piece.
9. In estimating the dose to individuals from intake of airborne radioactive materials, the licensee shall use the concentration of radioactive material in the air that is inhaled when respirators are worn, which is determined by dividing the ambient concentration in air without respiratory protection by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the licensee shall modify the calculation using the corrected value. If the dose is later found to be less than the estimated dose, the licensee may modify the calculation using the corrected value.

B. The licensee shall use Appendix A to select equipment and associated assigned protection factors.
C. A licensee shall apply to the Agency for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:
1. State the reason for the higher protection factors; and

2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.

D. The licensee shall notify the Agency in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (C).

ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY

R12-1-501. Definitions

"Access panel" No change
"Annual refresher safety training" No change
"Aperture" No change
"Associated equipment" No change
"Certifying entity" means an independent certifying organization that complies with the requirements in Appendix A of this Article, or requirements of the NRC or another Agreement State, that are equivalent to the requirements in parts II and III of Appendix A.
"Collimator" No change
"Control (drive) cable" No change
"Control (drive) mechanism" No change
"Control tube" No change
"Door" No change
"Exposure head" No change
"Ground fault" No change
"Guide tube (projection sheath)" No change
"Hands-on experience" No change
"Independent certifying organization" means an independent organization that meets all of the requirements in Appendix A.
"Lay-barge radiography" means industrial radiography performed on any water vessel used for laying pipe.
"Port" No change
"Practical examination" No change
"Radiographic exposure device" means any x-ray machine used for purposes of making an industrial radiographic exposure or a device that contains a sealed source, and the sealed source or its shielding may be moved or otherwise changed from a shielded to an unshielded position for purposes of making an industrial radiographic exposure.
"Radiographic operations" means all activities associated with the presence of ~~radioactive~~ radiation sources in a radiographic exposure device during use of the device or transport (except when the device is being transported by a common or contract carrier). This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.
"S-tube" means a tube through which a radioactive source travels when the source is inside a radiographic exposure device.
"Source assembly" No change
"Underwater radiography" means industrial radiography performed when a radiographic exposure device is beneath the surface of water.

R12-1-518. Labeling, Storage, and Transportation

A. A licensee shall not use a source changer or a storage container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label that bears the standard trefoil radiation caution symbol and the standard colors for the symbol specifically: magenta, purple, or black on a yellow background, and the label has a minimum diameter of 25 mm and the wording "CAUTION (or DANGER), RADIOACTIVE MATERIAL NOTIFY CIVIL AUTHORITIES (or "NAME OF COMPANY")"

B. A licensee shall not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with 10 CFR 71, January 1, 2004, published by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

C. A licensee shall physically secure locked radiographic exposure devices and storage containers behind a locked door to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner that will minimize danger from explosion or fire.

D. A licensee shall lock each transport package that contains licensed material and physically secure the package behind the locked doors of the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

R12-1-523. Personnel Monitoring

~~**A.** An individual shall not act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and either a film badge, a TLD, or an optically stimulated luminescence (OSL) dosimeter. At permanent radiography installations~~

~~where other required alarming or warning devices are in routine use, an alarm rate meter is not required.~~

~~1. A licensee shall provide pocket dosimeters that have a range from zero to 2 millisieverts (200 millirems) and ensure that the dosimeters are recharged at the start of each shift. Electronic personal dosimeters are permitted in place of ion-chamber pocket dosimeters.~~

~~2. The licensee shall assign a film badge, TLD, and OSL dosimeter to one individual, who will wear the assigned equipment.~~

~~3. The licensee shall replace film badges at least monthly and replace TLDs or OSL dosimeters at least quarterly.~~

~~4. After replacement, the licensee shall ensure that each film badge or TLD is processed as soon as possible.~~

~~**B.** A radiographer or radiographer's assistant shall record exposures noted from direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters at the beginning and end of each shift.~~

~~**C.** A licensee shall ensure that each pocket dosimeters, or electronic personal dosimeters is checked at least yearly for correct response to radiation, and discontinue use if a dosimeter if it is not accurate within plus or minus 20% of the true radiation exposure.~~

~~**D.** If an individual's pocket dosimeter has an off-scale reading, or the electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause. A licensee shall send the individual's film badge, TLD, or OSL dosimeter for processing within 24 hours. The licensee shall not allow the individual to work with licensed radioactive material until the individual's radiation exposure has been determined. Using the information from the badge or dosimeter, the RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure, as prescribed in Article 4 of this Chapter and include the results in records maintained in accordance with subsection (G).~~

~~**E.** If an Agency approved individual monitoring device is lost or damaged, the worker shall cease work immediately until the licensee provides a replacement film badge, TLD, or OSL dosimeter is provided and RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of a lost or damaged film badge, TLD, or OSL dosimeter. The licensee shall include the calculated exposure and the time period for which the film badge, TLD, or OSL dosimeter was lost or damaged in the records maintained in accordance with subsection (G).~~

~~**F.** For each alarm rate meter a licensee shall ensure that:~~

~~1. At the start of a shift that the alarm functions (sounds) before using the device.~~

~~2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20% of the true radiation dose rate;~~

~~3. A special means is necessary to change the preset alarm function on the device; and~~

~~4. Each device Is calibrated at periods not to exceed 12 months for correct response to radiation.~~

~~**G.** Each licensee shall maintain the following personnel monitoring records:~~

~~1. Each dosimeter reading and the yearly operability check required by subsections (B) and (C) for three years after each record is made.~~

~~2. A record of each alarm rate meter calibration for three years after the record is made.~~

~~3. Any report received from the film badge, TLD, or OSL processor. The licensee shall maintain records until the Agency terminates the license.~~

~~4. Any estimation of an exposure resulting from off-scale personal direct-reading dosimeters or lost or damaged film badges, TLDs, or OSL dosimeters. The records shall be maintained until the Agency terminates the license.~~

A. A licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarm rate meter is not required. A licensee shall:

1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirems). The licensee shall ensure that each dosimeter is recharged at the start of each shift. Electronic personal dosimeters are permitted in place of ion-chamber pocket dosimeters.
2. Assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
3. Replace film badges at least monthly and ensure that other personnel dosimeters are processed and evaluated by an accredited NVLAP processor and replaced at periods that do not exceed three months.
4. After replacement, ensure that each personnel dosimeter is processed as soon as possible.

B. A licensee shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personal dosimeters, at the beginning and end of each shift. The licensee shall maintain the records for three years after the Agency terminates the license.

C. A licensee shall check pocket dosimeters and electronic personal dosimeters for correct response to radiation at periods that do not exceed 12 months. The licensee shall record the results of each check and maintain the records for three years after the dosimeter check is performed. The licensee shall discontinue use of a dosimeter if it is not accurate within plus or minus 20 percent of the true radiation exposure.

D. If an individual's pocket dosimeter has an off-scale reading, or the individual's electronic personal dosimeter reads greater

than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a licensee shall process the individual's dosimeter within 24 hours of the suspect exposure. The licensee shall not allow the individual to resume work associated with sources of radiation until the individual's radiation exposure has been determined. Using information from the dosimeter, the licensee's RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure as prescribed in Article 4 of this Chapter and include the results of this determination in the personnel monitoring records maintained in accordance with subsection (B).

E. If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee shall ensure that the worker ceases work immediately until the licensee provides a replacement personnel dosimeter that meets the requirements in subsection (A) and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of the lost or damaged personnel dosimeter. The licensee shall maintain a record of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).

F. The licensee shall maintain dosimetry reports received from the accredited NVLAP personnel dosimeter processor in accordance with subsection (B).

G. For each alarm rate meter a licensee shall ensure that:

1. At the start of each shift, the alarm functions (sounds) properly before an individual uses the device;
2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
3. A special means is necessary to change the preset alarm function on the device; and
4. Each device is calibrated at periods that do not exceed 12 months for correct response to radiation. The licensee shall maintain records of alarm rate meter calibrations in accordance with subsection (B).

ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS

R12-1-603. Operational Standards, Shielding, and Darkroom Requirements

A. No change

B. No change

1. No change
2. No change
3. No change

C. No change

1. No change
2. No change
3. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change
4. No change

D. No change

~~1. Use a darkroom that is light tight as determined under one of the following formulas:~~
   ~~a. (Base + Fog) - Base 0.03 optical density units; or~~
   ~~b. Using an exposed film, (Base + Fog) - Base 0.10 optical density units. Note: Base is the optical density of unexposed film as used at the facility; (Base + Fog) is the optical density of Base unexposed film exposed in the darkroom for two minutes.~~

1. Use darkroom conditions to prevent film fog of greater than or equal to 0.05 optical density. The registrant shall use following procedure to test for film fog:
   a. The registrant shall expose the film radiographically so the processed film has an optical density of at least 1.0 over Base density, but less than an optical density of 1.0 under Dmax;
   b. The registrant shall then expose half of the radiographically-exposed film in the darkroom for two minutes; and
   c. The registrant shall then compare the difference in optical densities between the darkroom-exposed half and non-darkroom-exposed half to determine whether film fog is less than 0.05 optical density.
   Note: Base is the optical density of unexposed film as used at the facility; (Base + Fog) is the optical density of Base unexposed film exposed in the darkroom for two minutes.
2. No change
3. No change

R12-1-609. Chest Photofluorographic Systems

~~A. Equipment~~

~~1. All provisions of R12-1-607(A) and (B) apply.~~
~~2. A collimator shall restrict the useful beam to the area of the photofluorographic screen.~~

~~**B.** Structural shielding. All provisions of R12-1-603(C) and R12-1-607(C) apply.~~
~~**C.** Operating procedures~~
~~1. All provisions of R12-1-607(D) apply.~~
~~2. All individuals except the patient being examined shall be in shielded positions during exposures.~~
~~3. Personnel monitoring shall be worn by persons operating photofluorographic systems in accordance with R12-1-419(B).~~

Use of chest photofluorographic systems for diagnosis of human disease is prohibited.

R12-1-614. Mammography

A. No change
1. No change
2. No change
3. No change
4. If used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam has a half-value layer between the values of: ~~"measured kVp/100 and measured kVp/100 + 0.1 millimeters" of aluminum equivalent~~ "measured kVp/100 and measured kVp/100 + L millimeters" of aluminum equivalent, where L = 0.12 for Mo/Mo, L= 0.19 for Mo/Rh, L=0.22 for Rh/Rh, L=0.30 for W/Rh target filtration combinations and L= 0.33 for other target filtration combinations not otherwise specified.
5. No change
6. No change
7. No change
   a. No change
   b. No change
   c. No change
8. No change
   a. No change
   b. No change
9. No change
10. No change
11. No change
12. Mammography x-ray systems operating with automatic exposure control are capable of maintaining a film density within +/- ~~0.30~~ 0.15 optical density units over the clinical range of kVp used, for a breast having an equivalent phantom ~~thicknesses~~ thickness from 2 to 6 centimeters. If the film density cannot be maintained to within +/- ~~0.30~~ 0.15 of the average kVp used and phantom thickness from 2 to 6 centimeters cannot be maintained by the automatic exposure control, a technique chart is used that alters kVp and density control settings as a function of breast thickness and density. If a technique chart is used, the operator shall maintain the film density at +/- ~~0.30~~ 0.15 optical density units.
13. No change
14. No change
15. No change
    a. No change
    b. No change
16. No change
17. No change
    a. No change
    b. No change
    c. No change

B. No change
1. No change
2. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change
   f. No change
   g. No change
   h. No change
   i. No change

C. No change
1. No change

a. No change
i. No change
ii. No change
iii. No change
iv. No change
v. No change
b. No change
i. No change
ii. No change
c. No change
i. No change
ii. No change
iii. No change
iv. No change
v. No change
2. No change

D. No change
1. No change
2. No change

ARTICLE 9. PARTICLE ACCELERATORS

R12-1-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks

A. No change
1. No change
a. No change
b. No change
c. No change
d. No change
2. No change
3. No change
a. No change
b. No change
c. No change
d. No change
e. No change
f. No change
4. No change
a. No change
b. No change
c. No change
d. No change
e. No change
i. No change
ii. No change
iii. No change
f. No change
g. No change
i. No change
ii. No change
iii. No change
iv. No change
v. No change
5. No change
a. No change
b. No change
c. No change
d. No change
e. No change
f. No change

i. No change
ii. No change
6. No change
a. No change
b. No change
c. No change
d. No change
7. No change
a. No change
b. No change
c. No change
d. No change
8. No change
a. No change
b. No change
c. No change
d. No change
e. No change
f. No change
9. No change
a. No change
b. No change
c. No change
10. No change

B. No change
1. No change
a. No change
b. No change
c. No change
d. No change
e. No change
f. No change
2. No change
3. No change
a. No change
b. No change
c. No change
d. No change
i. No change
ii. No change
iii. No change
iv. No change
v. No change
e. No change
f. No change
i. No change
ii. No change
iii. No change

C. No change
1. No change
2. No change
3. No change
4. No change
5. Records of spot checks shall be maintained available for inspection by the Agency for ~~two~~ three years following the spot check measurements. Records of spot checks not performed by a qualified expert shall be signed by a qualified expert within 15 days of the spot check.

D. No change
1. No change
2. No change

ARTICLE 15. TRANSPORTATION

R12-1-1504. Intrastate Transportation and Storage of Radioactive Materials

A. ~~A person shall not transport radioactive materials within this state except as provided in this rule.~~
   ~~1. A general license is issued subject to R12-1-1504(B), (C), (D) and R12-1-1505 to any licensee to transport and store radioactive material incidental to transportation, provided the transportation is incidental to, and is made to further the licensee's operations.~~
   ~~2. A general license is issued by this rule to any common or contract carrier not exempt pursuant to R12-1-103.~~
   A general license is issued to:
   1. Any common or contract carrier not exempt under R12-1-103 to receive, possess, transport, and store radioactive material in the regular course of carriage for others or to store radioactive material incident to the transport activities, provided the transportation or storage is in accordance with applicable requirements for the mode of transport of the U.S. Department of Transportation, 49 CFR 171 through 180, October 1, 2003, which are incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments.
   2. Any private carrier or licensee who transports and stores radioactive material, provided the transportation and storage are in accordance with the requirements applicable to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through 180, October 1, 2003, which are incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments.

~~**B.** When transporting or storing radioactive materials, a person shall comply with the regulations of the U.S. Department of Transportation, 49 CFR 171 through 189, 1995 Edition, published October 1, 1995, incorporated by reference and on file with the Agency and the Office of Secretary of State, to the extent This incorporation by reference contains no future editions or amendments.~~

B. Any notification of incidents required under federal regulations in subsection (A) shall also be filed with, or made to, the Agency.

~~**C.** Any notification of incidents required by those regulations shall in addition be filed with, or made to, the Agency.~~

C.~~**D.**~~ A person who transports or stores ~~Persons who transport and store~~ radioactive material according ~~pursuant~~ to the general license in this Section ~~are~~ is exempt from the requirements of Article 4 and Article 10 of this Chapter to the extent that this Section applies to transportation of the radioactive material ~~with respect to such transport and storage~~.

R12-1-1506. Preparation of Radioactive Material for Transport

A licensee shall not deliver any package that contains radioactive material to a carrier for transport or transport radioactive material, unless the licensee:

1. Complies with the ~~applicable~~ packaging, monitoring, manifesting, marking, and labeling requirements, applicable to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through ~~189~~ 180, October 1, 2003 ~~1995 edition, published October 1, 1995~~, or 39 CFR 111.1, July 1, 2003, both of which are incorporated by reference and on file with the Agency ~~and the Office of Secretary of State~~. This incorporation contains no future editions or amendments; and
2. No change
3. No change
   a. No change
   b. No change

ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES

R12-1-1716. Inventory

~~Every six months each licensee or registrant shall conduct an inventory to account for all sources of radiation. Records of inventories shall be retained for three years from the date of the inventory and shall include the quantities and kinds of sources of radiation, the location where sources of radiation are assigned, the date of the inventory, and the name of the individual conducting the inventory.~~

A licensee shall conduct a physical inventory every six months to account for all licensed material received and possessed under the license. The licensee shall maintain records of the inventory for three years from the date of the inventory for inspection by the Agency. The inventory shall indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of each individual who conducted the inventory. Physical inventory records may be combined with leak test records.

R12-1-1720. ~~Inspection and Maintenance~~ Inspection, Maintenance, and Opening of a Source or Source Holder

~~**A.** At intervals not to exceed six months, each licensee shall conduct a program of inspection and maintenance of holders, logging tools, source handling tools, storage containers, transport containers, and injection tools to assure proper labeling and physical condition. A licensee shall retain records of inspection and maintenance for a period of three years.~~

~~**B.** If an inspection conducted according to subsection (A) reveals damage to labeling or components critical to radiation~~

~~safety, the licensee shall remove the device from service until repairs have been made.~~

~~**C.** Only persons specifically authorized by the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State may repair, open, or modify a sealed source that contains radioactive material.~~

A. Each licensee shall visually check source holders, logging tools, and source handling tools for defects before each use to ensure that the equipment is in good working condition and that required labeling is present. If defects are found, the licensee shall remove equipment from service until it is repaired, and make a record listing: date of check, name of inspector, equipment involved, each defect found, and repairs made. The licensee shall maintain each record for three years after a defect is found.

B. Each licensee shall have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible. If any defect is found, the licensee shall remove the equipment from service until it is repaired, and make a record listing; date of inspection, equipment involved, inspection and maintenance operations performed, each defect found, and each action taken to correct a defect. The licensee shall maintain each record for three years after a defect is found.

C. A licensee shall not remove a sealed source from a source holder or logging tool, or perform maintenance on a sealed source or source holder that contains a sealed source without written permission from the Agency.

D. If a sealed source is stuck in the source holder, a licensee shall not perform any operation, such as drilling, cutting, or chiseling, on the source holder unless the licensee is specifically authorized to perform the operation by the Agency.

E. The opening, repair, or modification of any sealed source is prohibited, unless authorized by the Agency, NRC, or an Agreement State.

R12-1-1721. Training ~~Requirements~~

~~**A.** A licensee shall not permit any individual to act as a logging supervisor as defined in Article 1 until the individual has:~~

~~1. Received, in a course recognized by the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State instruction in the following subjects and demonstrated an understanding of:~~

~~a. Fundamentals of radiation safety~~

~~i. Characteristics of radiation~~

~~ii. Units of radiation dose and quantity of radioactivity~~

~~iii. Significance of radiation dose~~

~~(1) Radiation protection standards~~

~~(2) Biological effects of radiation dose~~

~~iv. Levels of radiation from sources of radiation~~

~~v. Methods of minimizing radiation dose~~

~~(1) Working time~~

~~(2) Working distances~~

~~(3) Shielding~~

~~b. Radiation detection instrumentation to be used~~

~~i. Use of radiation survey instruments~~

~~(1) Operation~~

~~(2) Calibration~~

~~(3) Limitations~~

~~ii. Survey techniques~~

~~iii. Use of personnel monitoring equipment~~

~~c. Equipment to be used~~

~~i. Handling equipment~~

~~ii. Sources of radiation~~

~~iii. Storage and control of equipment~~

~~iv. Operation and control of equipment~~

~~d. The requirements of pertinent federal and state regulations~~

~~e. The licensee's written operating and emergency procedures~~

~~f. The licensee's record keeping procedures~~

~~2. Received, read, and demonstrated an understanding of the rules contained in this Article and the applicable Sections of Articles 1, 4, 10, and 15 of this Chapter or their equivalent, conditions of appropriate license or certificate of registration, and the licensee's operating and emergency procedures; and~~

~~3. Demonstrated competence to use sources of radiation, related handling tools, and radiation survey instruments which will be used on the job.~~

~~**B.** A licensee shall not permit an individual to assist in the handling of sources of radiation until the individual has:~~

~~1. Read or received, and demonstrated an understanding of instruction in the licensee's operating and emergency procedures; and~~

~~2. Demonstrated competence to use, under the personal supervision of the logging supervisor, the sources of radiation,~~

~~related handling tools, and radiation survey instruments that will be used on the job.~~

~~**C.** The licensee shall retain employee training records for three years following termination of employment.~~

A. A licensee shall not permit an individual to act as a logging supervisor until that person has:

1. Completed training in the subjects outlined in subsection (E);
2. Received copies of, and instruction in:
   a. The applicable rules contained in 12 AAC 1;
   b. The Agency license under which the logging supervisor will perform well logging; and
   c. The licensee's operating and emergency procedures, required by R12-1-1722;
3. Completed on-the-job training and demonstrated competence during a field evaluation in the use of licensed materials, remote handling tools, and radiation survey instruments; and
4. Demonstrated understanding of the requirements in subsections (A)(1) and (A)(2) by successfully completing a written test.

B. The licensee shall not permit an individual to act as a logging assistant until that person has:

1. Received instruction in applicable rules of 12 AAC 1;
2. Received copies of, and instruction in, the licensee's operating and emergency procedures required by R12-1-1722;
3. Demonstrated understanding of the materials listed in subsections (B) (1) and (B)(2) by successfully completing a written or oral test; and
4. Received instruction in the use of licensed materials, remote handling tools, and radiation survey instruments that is related to the logging assistant's intended job responsibilities.

C. A licensee shall provide a safety training review for logging supervisors and logging assistants at least once during each calendar year. Each logging supervisor and logging assistant shall attend a safety training review at least once during the current calendar year.

D. A licensee shall maintain a record of each logging supervisor's and logging assistant's initial training and annual safety training review. The training records shall include copies of written tests and dates of oral tests given after the effective date of this Section. The licensee shall maintain the initial training records for three years following termination of employment, and maintain records of each annual safety training review, including a list of subjects covered during the review, for three years.

E. A licensee shall provide instruction in the following subjects in the training required by subsection (A)(1):

1. Fundamentals of radiation safety, including:
   a. Characteristics of radiation;
   b. Units of radiation dose and quantity of radioactivity;
   c. Hazards of exposure to radiation;
   d. Levels of radiation from licensed material;
   e. Methods of controlling radiation dose (time, distance, and shielding); and
   f. Radiation safety practices, including prevention of contamination and methods of decontamination;
2. Radiation detection instruments, including:
   a. Use, operation, calibration, and limitations of radiation survey instruments;
   b. Survey techniques; and
   c. Use of personnel monitoring equipment;
3. Equipment, including:
   a. Operation of equipment, including source handling equipment and remote handling tools;
   b. Storage, control, and disposal of licensed material; and
   c. Maintenance of equipment;
4. The requirements of pertinent federal and state law, and
5. Case histories of accidents in well logging.

R12-1-1723. Personnel Monitoring

~~**A.** A licensee shall not permit an individual to act as a logging supervisor or logging assistant or assist in handling sources of radiation unless the licensee provides the individual with monitoring devices in accordance with R12-1-419.~~

~~**B.** If the level of exposure to an individual using licensed radioactive material in subsurface tracer studies exceeds exposure limits in Article 4, the licensee shall provide a bioassay for the individual.~~

~~**C.** The licensee shall maintain personnel monitoring records according to R12-1-419(E).~~

A. A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.

B. A licensee shall assign a personnel dosimeter to each individual, who shall wear the assigned equipment.

C. A licensee shall replace film badges at least monthly and replace other personnel dosimeters at least quarterly. After replacement, a licensee shall promptly process each personnel dosimeter.

D. A licensee shall provide bioassay services to each individual who uses licensed materials in subsurface tracer studies if required by the license.

E. A licensee shall record exposures noted from personnel dosimeters required by subsection (A) and bioassay results and maintain these records for three years after the Agency terminates the radioactive material license.

R12-1-1742. Documents and Records Required at Field Stations

~~Each licensee utilizing a field station shall have the following documents and records available for the specific devices and sources used at the field station:~~

~~1. Appropriate license or equivalent document;~~
~~2. Operating and emergency procedures;~~
~~3. Applicable rules;~~
~~4. Record of the latest survey instrument calibration required by R12-1-1714;~~
~~5. Record of the latest leak test performed according to R12-1-1715;~~
~~6. Inventories of sealed sources required by R12-1-1716;~~
~~7. Utilization records required by R12-1-1717;~~
~~8. Records of inspection and maintenance required by R12-1-1720; and~~
~~9. Survey records required by R12-1-1741.~~

Each licensee shall maintain the following documents and records at the field station:

1. A copy of 12 A.A.C. 1;
2. The license, authorizing use of licensed material;
3. Operating and emergency procedures required by R12-1-1722;
4. The record of radiation survey instrument calibrations required by R12-1-1714;
5. The record of leak test results required by R12-1-1715;
6. Physical inventory records required by R12-1-1716;
7. Utilization records required by R12-1-1717;
8. Records of inspection and maintenance required by R12-1-1720;
9. Training records required by R12-1-1721; and
10. Survey records required by R12-1-1741.

R12-1-1743. Documents and Records Required at Temporary Job Sites

~~Each licensee that conducts operations at a temporary job site shall have the following documents and records available at that site:~~

~~1. Operating and emergency procedures;~~
~~2. Survey records required by R12-1-1741 for the period of operation at the site;~~
~~3. Evidence of current calibration for the radiation survey instruments in use at the site; and~~
~~4. If operating in Arizona under reciprocity, a copy of the current out-of-state license, certificate of registration, or equivalent documents; and Agency authorization to enter the state to perform operations governed by this Article.~~

Each licensee that conducts operations at a temporary job site shall maintain the following documents and records at the temporary job site until the well logging operation is completed:

1. Operating and emergency procedures required by R12-1-1722;
2. The most current calibration records for the radiation survey instruments in use at the site required by R12-1-1714;
3. The most current survey records required by R12-1-1741.
4. The shipping papers for transportation of radioactive materials required by license condition; and
5. If operating under reciprocity in accordance with R12-1-320, a copy of the Agency authorization for use of radioactive material in Arizona.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R15-5-127	Amend
R15-5-2327	Amend

2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. §§ 42-5061(A)(22) and 42-5159(A)(5)

3. The effective date of the rules:
December 4, 2004

4. A list of all previous notices appearing in the Register addressing the final rules:
Notice of Rulemaking Docket Opening: 9 A.A.R. 3352, July 25, 2003
Notice of Proposed Rulemaking: 10 A.A.R. 554, Feb. 20, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	Hsin Pai, Tax Analyst
Address:	Tax Policy and Research Division Department of Revenue 1600 W. Monroe, Room 810 Phoenix, AZ 85007
Telephone:	(602) 716-6851
Fax:	(602) 716-7995
E-mail:	paih@revenue.state.az.us

Please visit the ADOR Web site to track the progress of these rules and other agency rulemaking matters at www.revenue.state.az.us/tra/draftdoc.htm.

6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:
The agency is amending the rules to: (a) more clearly address several issues relating to the transaction privilege and use tax exemptions on certain fuels that, under certain conditions, are subject to A.R.S. Title 28 taxes administered by the Arizona Department of Transportation (ADOT), and (b) reflect statutory changes to A.R.S. Title 28. The amendments explicitly address taxation of aviation fuel, dyed diesel fuel, liquefied petroleum gas, natural gas, and use fuel for purposes of transaction privilege and use taxes. With regard to Arizona use tax (imposed on purchases of tangible personal property that are used, stored, or consumed in Arizona) owed on use fuel that is exempt from the use fuel tax (imposed on use fuel used in the propulsion of a light class motor vehicle on a highway in Arizona to compensate for use of the state's highways), A.A.C. R15-5-2327 provides that the fuel becomes subject to the use tax on the date that a consumer is issued a use fuel tax refund. This technical point of significance is important in the offsetting of the use fuel tax refund by the amount of use tax owed, which ADOT performs pursuant to S.B. 1174, 2004 Ariz. Sess. Laws 249.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:
Not applicable

9. A summary of the economic, small business, and consumer impact:
The Department does not anticipate any significant economic impact as a result of adopting the rules. Because the amendments clarify and more accurately explain the scope and nature of the transaction privilege tax and use tax exemptions for the aforementioned fuel types, some consumers and fuel vendors may experience a minimal impact resulting from increased compliance measures. The Department expects that benefits derived from the rules to the public and the Department will be greater than the costs.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:
After publication of the Notice of Proposed Rulemaking, the Department received comments from the public (see item 11 *infra*) and Department personnel expressing confusion over the wording of R15-5-2327(B). The subsection provided that use fuel purchases become subject to Arizona use tax on the date that the purchaser "is entitled to" a use fuel tax refund. By "entitled to," the Department was referring to the date that ADOT issues a refund of the use fuel tax to the consumer. Consequently, the Department has clarified the passage to read that a use fuel purchase becomes subject to Arizona use tax on the date that the purchaser "is issued" a use fuel tax refund. Because it merely serves to clarify the provision, the Department does not consider the change to be "substantial" under A.R.S. § 42-1025.

11. A summary of the comments made regarding the rules and the agency response to them:
The Department received two comments on the rules during the comment period:

1. One comment received by the Department observed that, "[f]rom a practical standpoint," A.A.C. R15-5-2327(B) "[did] not seem feasible" because "[w]hen the consumer applies for a federal or state fuel use tax refund, they pay the applicable taxes at the date of application." The person who submitted this comment argued that tax should "be due upon the date of application."

Department's response: A.A.C. R15-5-2327(B) states that the purchase of use fuel becomes "subject to"—*liable for*—Arizona tax on the date that the consumer is issued a refund of use fuel tax paid. The reason for this statement is that use fuel is not exempt from the use fuel tax until the fuel has been consumed in an exempt manner. Only at and after the time the fuel is no longer subject to the use fuel tax can it be subject to use tax. R15-5-2327(B) as provided below is thus an accurate statement of when use tax can apply to the purchase. It would be incorrect to conclude that liability for use tax attaches based on whatever date the taxpayer chooses to apply for the refund, as the "date of application" could be *before* the fuel has been used in an exempt manner. The suggested change proposed by this comment is thus incorrect as a matter of law.

2. Another commenter argued that A.A.C. R15-5-2327(B) is "illegal" because diesel fuel that is at any point "subject to" the use fuel tax under A.R.S. § 28-5606 is forever exempt from use tax under A.R.S. § 42-5159(A)(5) afterwards:

> The fact that a user applies for, and obtains a refund of the tax paid, is irrelevant to the determination of whether the use of the fuel is subject to use tax because, when purchased, it was subject to use fuel tax and fuel tax was paid. The fact that the fuel tax paid by off-highway fuel users is ultimately refunded, the use tax exemption still applies.

The commenter cited to a "prior Attorney General Opinion" as evidence that the proposed amendment is "flawed and flies in the face of longstanding policy on this issue," though he noted that it is "an attempt to support the illegal position being taken by the Department in current and prior use tax audit of taxpayers that have received refunds from the Arizona Department of Transportation." He closed by arguing that the proposed fuel rules are unauthorized by the Administrative Procedure Act and are an abuse of the process because the Department would be able to "cite to this Rule as legal authority in any litigation the Department may engage with any taxpayers who challenge the Department's position in any audits, administrative appeals and court appeals."

Department's response: In drafting the rules, the Department considered a viewpoint similar to that expressed by the commenter along with the 1984 AG opinion he cited, which addresses motor vehicle fuel. The Department's conclusion was that "subject to," as used in A.R.S. §§ 42-5061(A)(22) and 42-5159(A)(5), is equivalent in meaning to "liable for." Consequently, any particular tangible personal property is no longer "liable for" and thus no longer "subject to" a tax upon occurrence of an event rendering the property nontaxable, which in this case is when the consumer becomes eligible for a refund of tax paid on the property. Because the concern has been addressed, the Department determined that no change to the rules was necessary.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION

ARTICLE 1. RETAIL CLASSIFICATION

Section
R15-5-127. Sales of Fuel

ARTICLE 23. USE TAX

Section
R15-5-2327. Fuels

ARTICLE 1. RETAIL CLASSIFICATION

R15-5-127. Sales of Fuel

A. ~~For the purposes of this rule, "use fuel" means fuel other than motor vehicle fuel, as defined in A.R.S. § 28-101(28). Diesel fuel is a use fuel. Gasoline is a motor vehicle fuel.~~ In this Section, "aviation fuel" and "dyed diesel fuel" have the same meanings as prescribed in A.R.S. §§ 28-101 and 28-5601.

B. Gross receipts from the sale of ~~use~~ dyed diesel fuel are ~~taxable under the retail classification if the use fuel is not used to propel vehicles on the streets, roads, and highways of this state.~~ subject to transaction privilege tax.

C. ~~Retail sales of jet fuel are taxable under the jet fuel excise and use tax classification.~~ Gross receipts from the sale of liquefied petroleum gas or natural gas used to propel a motor vehicle are exempt from transaction privilege tax.
D. Aviation fuel is subject to tax under A.R.S. § 28-8344 only.
E. Gross receipts from the retail sale of jet fuel are subject to the jet fuel excise and use tax under A.R.S. § 42-5352.

ARTICLE 23. USE TAX

R15-5-2327. Fuels

A. ~~For purposes of this rule, "use fuel" means fuel other than motor vehicle fuel as defined in A.R.S. § 28-101(28). Diesel fuel is a use fuel. Gasoline is a motor vehicle fuel.~~ In this Section, "aviation fuel," "dyed diesel fuel," and "use fuel" have the same meanings as prescribed in A.R.S. §§ 28-101 and 28-5601.
B. Except as provided in subsection (D), ~~Purchases~~ a purchase of use fuel ~~are taxable if the~~ is subject to use tax under A.R.S. § 42-5155 on the date the consumer is issued a refund because the use fuel is not ~~used to propel vehicles on the streets, roads, or highways of this state~~ subject to the use fuel tax under A.R.S. § 28-5606.
C. ~~Purchases of jet fuel are subject to tax under the jet fuel excise and use tax classification.~~ Dyed diesel fuel is subject to use tax if transaction privilege tax is not imposed by the Department.
D. Liquefied petroleum gas or natural gas used to propel a motor vehicle is exempt from use tax.
E. Aviation fuel is subject to tax under A.R.S. § 28-8344 only.
F. A purchase of jet fuel is subject to the jet fuel excise and use tax under A.R.S. § 42-5352.

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

1. Sections Affected **Rulemaking Action:**

R19-2-106	Amend
R19-2-306	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 5-104(A)(2) and (T)

Implementing statute: A.R.S. §§ 5-104, 5-107.01, 5-108

3. The effective date of the rules:

December 4, 2004

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 10 A.A.R. 2265, June 4, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 2475, June 25, 2004

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: William J. Walsh

Address: Arizona Department of Racing
1110 W. Washington Street, Suite 260
Phoenix, AZ 85007

Telephone: (602) 364-1700

Fax: (602) 364-1703

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The rules changes were initiated at the direction of the members of the Arizona Racing Commission. The members are concerned that employees in the racing industry may not be covered by a worker's compensation policy. The amendments are intended to ensure that this coverage exists for employees and clarify that the Arizona Department of Racing will oversee this area.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all underlying data underlying each study, and any analysis of each study and other supporting material:

The agency did not rely on any study in this rulemaking.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
None

9. The summary of the economic, small business, and consumer impact:
If employers take out workers' compensation coverage for employees that have not done so in the past, there will be a cost to the employers. The cost is not known because there are no records to determine who carries this insurance. If an employee is able to access this coverage where it was not possible to do so in the past, there will be a monetary gain to the employee. It is not possible to determine what this gain will be.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
A change to an incorrect statutory reference was made. There have been numerous non-substantive changes made to modernize the language in the rules.

11. A summary of the principal comments and the agency response to them:
The agency did not receive any written comments to the rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None

13. Incorporations by reference and their location in the rules:
None

14. Was this rule previously adopted as an emergency rule?
No

15. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 1. HORSE RACING

Section
R19-2-106. Licensing

ARTICLE 3. GREYHOUND RACING

Section
R19-2-306. Licensing

ARTICLE 1. HORSE RACING

R19-2-106. Licensing

A. ~~All persons~~ A person participating in any capacity in a racing meeting, including ~~all persons~~ any person who ~~perform~~ performs services in connection with the conduct of the racing meeting, shall obtain a license from the Department, except:
1. ~~Those persons~~ A person performing services during a county fair race meet who ~~are~~ is identified by a steward as a ~~volunteers~~ volunteer; or
2. ~~Any~~ A person owning less than 10% of ~~all classifications and types of~~ outstanding shares of stock, regardless of classification or type, of any permittee or licensee.

B. No change
1. ~~A person~~ To ~~applying~~ apply for a license, a person shall complete the ~~form~~ license application prescribed by the Department. ~~All applicants and licensees are obligated to know and follow the provisions of the rules governing racing in the state of Arizona.~~
2. No change
3. ~~A schedule of license and fingerprint processing fees shall be displayed prominently at each track.~~ When an applicant submits a license application, the applicant shall also submit the fee listed in subsection (G). The Department shall ensure that a schedule of license and fingerprint processing fees is displayed prominently at each track.
4. ~~Each~~ An applicant who is at least 18 years of age ~~or older~~ shall submit ~~to being fingerprinted~~ a full set of fingerprints to the Department. The fingerprints shall be taken by the Department or certified by a municipal police department, sheriff's office, or other ~~recognized~~ authority acceptable to the Department.
5. An applicant for a trainer license shall demonstrate knowledge and skill in protecting and promoting the safety and

welfare of animals participating in racing meetings by passing an examination prescribed by the Department. An applicant who fails to pass the examination shall wait at least six months before retaking the examination.

6. An applicant for a racing license shall indicate on the license application whether the applicant hires employees or independent contractors to work at an Arizona racetrack. For the purposes of this Section, "employee" has the meaning in A. R. S. § 23-902 (B) and "independent contractor" has the meaning in A.R.S. § 23-902 (C).
   a. An applicant that hires employees to work at an Arizona racetrack shall provide proof of compliance with A.R.S. § 23-961(A) by providing to the Department a copy of the declaration page of the applicant's workers' compensation insurance policy.
   b. The Department shall notify the Industrial Commission of Arizona of an applicant that fails to provide proof of workers' compensation insurance as required in this Section. The Department shall notify the Industrial Commission of Arizona of an applicant that hires independent contractors to enable the Industrial Commission of Arizona to investigate the characterization of the applicant's workers as independent contractors.

C. ~~License applications shall be submitted to the Department office located on the grounds of a permittee or other designated facility.~~ Each applicant and licensee shall know and follow the rules governing racing in Arizona.

D. No change

1. Under delegation from the Director, a steward shall grant or deny ~~A~~ a temporary license ~~application shall be granted or denied by a steward~~ and ~~transmitted~~ transmit the license application to the Director.
2. In considering each application for a license, ~~the~~ a steward may require the applicant, as well as the applicant's endorsers, to appear before the steward and show that the applicant is qualified ~~in every respect~~ to receive the license requested. The steward shall grant a license only if the applicant meets all the requirements in A.R.S. Title 5, Chapter 1, and these rules. ~~Ability as well as integrity shall be clearly shown by the applicant in order to receive a license.~~
3. ~~An applicant who fails to pass the test for a trainer's license shall wait at least six months before retaking the test.~~
4.3. ~~Administrative completeness review~~ Licensing time-frame.
   a. Administrative completeness review time-frame
      i. Within 85 days after receiving ~~an~~ a license application ~~package~~, the Department shall determine whether the license application ~~package~~ contains the information required by ~~subsections~~ subsection (B). ~~, (C), and (D)(1), (D)(2), and (D)(3).~~
      ~~b.~~ii. If the license application ~~package~~ is incomplete, the Department shall issue a written notice that specifies what information is required and return the license application. If the license application ~~package~~ is complete, the Department shall provide a written notice of administrative completeness.
      ~~c.~~iii. The Department shall deem ~~an~~ a license application ~~package~~ withdrawn if the applicant or licensee fails to file a complete license application ~~package~~ within 10 days of being notified that the license application ~~package~~ is incomplete.
   5.b. Substantive review time-frame: Within five days after ~~receipt of~~ determining that a ~~complete~~ license application ~~package~~ is administratively complete, the Department shall determine whether the applicant or licensee meets all substantive requirements and the Director, or designee, shall issue a written notice granting or denying a license.
   6.c. Overall time-frame: For the purpose of A.R.S. § 41-1073, the Department establishes the following time-frames for issuing a license~~.~~:
      ~~a.~~i. Administrative completeness review time-frame: 85 days.
      ~~b.~~ii. Substantive review time-frame: five days.
      ~~c.~~iii. Overall time-frame: 90 days.
7.4. Temporary license. All licenses are temporary for 90 days under A.R.S. § 5-108(F). Unless the ~~Department~~ Director denies a license to an applicant, a temporary license automatically becomes the license after 90 days.
5. The Department shall perform a background investigation of an applicant including fingerprint processing through the Department of Public Safety and the FBI, and reviewing records of the Association of Racing Commissioners International, Inc., North American Pari-mutuel Regulators Association, information systems, courts, law enforcement agencies, and Department within the time-frame prescribed in subsection (D)(3).

E. No change

1. A license may be denied if the applicant:
   a. ~~Habitually has~~ Has been or is intoxicated or a user of ~~narcotics~~ a narcotic drug as defined at A.R.S. § 36-2501(A)(8) within the grounds of the permittee ~~pursuant to A.R.S. § 36-2501(A)(8),~~ ; or
   b. ~~Has failed~~ Fails to disclose the true ownership or interest in any horse.
2. ~~Whenever~~ When a license is denied, the ~~Department~~ Director shall report the ~~reasons~~ reason for the denial in writing to the applicant and to the Association of Racing Commissioners International, Inc. and the North American Pari-mutuel Regulators Association.

F. No change

1. No change.
2. No change
3. The ~~Department~~ Director or designee shall not license a person ~~under~~ who is less than 16 years of age in any capacity

other than as an owner, and shall not license a person ~~under~~ who is less than 18 as an official, trainer, or assistant trainer. ~~Any~~ A person ~~under~~ less than 18~~,~~ who is licensed as an owner, shall have a parent or guardian sign the owner's license application, ~~the parent or guardian~~ assuming full financial responsibility for the ~~applicant~~ owner, before that ~~person can~~ owner is eligible to be licensed.

4. ~~Each~~ A license ~~shall expire~~ expires on the 30th day of June, 1995, and every third year thereafter, except that:
   a. Apprentice jockey licenses expire as provided in ~~R19-2-109(D)(1)(c)~~ R19-2-109(D)(2).
   b. One-year licenses ~~may be~~ issued for mutuel workers, concession workers, grooms, and peace officers~~. These licenses~~ expire each year on June 30.
5. ~~All persons, when~~ When present in the barn area of a horse track, ~~in~~ the paddock ~~areas~~ area, or ~~in~~ any other restricted area, a person shall wear in full view a photo identification badge issued by the Department or a pass issued by the permittee ~~in full view~~.

G. No change

~~H.~~ ~~All licenses are temporary under A.R.S. § 5-108(F). The Department shall perform a background investigation, including fingerprint processing through the Department of Public Safety and the FBI, and research and review of records of the Association of Racing Commissioners International, Inc., the North American Pari-mutuel Regulators Association, information systems, courts, law enforcement agencies, and the Department within time-frame prescribed in R19-2-106(D)(4).~~

~~I.~~H. Authorized agents.

1. No change
2. The principal shall sign the license application ~~for a license~~ on behalf of an authorized agent and clearly ~~set forth~~ identify the powers of the agent, including whether the agent is empowered to collect money from the permittee. The license application shall be either notarized or signed in the presence of a Department employee and a copy filed with the horsemen's bookkeeper and ~~with~~ the Department.
3. ~~The principal shall~~ To change an agent's powers or revoke an agent's authority, the principal shall describe the changed powers or revoked authority in writing that is either notarized or signed in the presence of a Department official, and filed with the Department and the horsemen's bookkeeper.

ARTICLE 3. GREYHOUND RACING

R19-2-306. Licensing

A. ~~All persons~~ A person participating in any capacity in a racing meeting, including ~~all persons~~ any person who ~~perform~~ performs services in connection with the conduct of the racing meeting, shall obtain a license from the Department, except:

1. ~~Those persons~~ A person performing services during a county fair race meet who ~~are~~ is identified by a steward as ~~a volunteers~~ volunteer; or
2. ~~Any~~ A person owning less than 10% of ~~all classifications and types of~~ outstanding shares of stock, regardless of classification or type, of any permittee or licensee.

B. No change

1. ~~A person~~ To ~~applying~~ apply for a license, a person shall complete the ~~form~~ license application prescribed by the Department. ~~All applicants and licensees are obligated to know and follow the provisions of the rules governing racing in the state of Arizona.~~
2. No change
3. ~~A schedule of license and fingerprint processing fees shall be displayed prominently at each track.~~ When an applicant submits a license application, the applicant shall also submit the fee listed in subsection (G). The Department shall ensure that a schedule of license and fingerprint processing fees is displayed prominently at each track.
4. ~~Each~~ An applicant who is at least 18 years of age ~~or older~~ shall submit ~~to being fingerprinted~~ a full set of fingerprints to the Department. The fingerprints shall be taken by the Department or certified by a municipal police department, sheriff's office, or other ~~recognized~~ authority acceptable to the Department.
5. An applicant for a trainer license shall demonstrate knowledge and skill in protecting and promoting the safety and welfare of animals participating in racing meetings by passing an examination prescribed by the Department. An applicant who fails to pass the examination shall wait at least six months before retaking the examination.
6. An applicant for a racing license shall indicate on the license application whether the applicant hires employees or independent contractors to work at an Arizona racetrack. For the purposes of this Section, "employee" has the meaning in A. R. S. § 23-902 (B) and "independent contractor" has the meaning in A.R.S. § 23-902 (C).
   a. An applicant that hires employees to work at an Arizona racetrack shall provide proof of compliance with A.R.S. § 23-961(A) by providing to the Department a copy of the declaration page of the applicant's workers' compensation insurance policy.
   b. The Department shall notify the Industrial Commission of Arizona of an applicant that fails to provide proof of workers' compensation insurance as required in this Section. The Department shall notify the Industrial Commission of Arizona of an applicant that hires independent contractors to enable the Industrial Commission of Arizona to investigate the characterization of the applicant's workers as independent contractors.

C. ~~License applications shall be submitted to the Department office located on the grounds of a permittee or at another desig-~~

~~nated facility.~~ Each applicant and licensee shall know and follow the rules governing racing in Arizona.

D. No change

1. Under delegation from the Director, a steward shall grant or deny ~~A~~ a temporary license ~~application shall be granted or denied by a steward~~ and ~~transmitted~~ transmit the license application to the Director.
2. In considering each application for a license, ~~the~~ a steward may require the applicant, as well as the applicant's endorsers, to appear before the steward and show that the applicant is qualified to receive the license requested. The steward shall grant a license only if the applicant meets all the requirements in A.R.S. Title 5, Chapter 1, and these rules. ~~Ability as well as integrity shall be clearly shown by the applicant in order to receive a license.~~

~~3. An applicant who fails to pass the test for a trainer's license must wait at least six months before retaking the test.~~

~~4.~~3. ~~Administrative completeness review~~ Licensing time-frame.

a. Administrative completeness review time-frame

i. Within 85 days after receiving ~~an~~ a license application ~~package~~, the Department shall determine whether the license application ~~package~~ contains the information required by ~~subsections~~ subsection (B). ~~, (C), and (D)(1), (D)(2), and (D)(3).~~

~~b.~~ii. If the license application ~~package~~ is incomplete, the Department shall issue a written notice that specifies what information is required and return the license application. If the license application ~~package~~ is complete, the Department shall provide a written notice of administrative completeness.

~~c.~~iii. The Department shall deem ~~an~~ a license application ~~package~~ withdrawn if the applicant or licensee fails to file a complete license application ~~package~~ within 10 days of being notified that the license application ~~package~~ is incomplete.

~~5.~~b. Substantive review time-frame: Within five days after ~~receipt of~~ determining that a ~~complete~~ license application ~~package~~ is administratively complete, the Department shall determine whether the applicant or licensee meets all substantive requirements and the Director, or designee, shall issue a written notice granting or denying a license.

~~6.~~c. Overall time-frame: For the purpose of A.R.S. § 41-1073, the Department establishes the following time-frames for issuing a license~~.~~:

~~a.~~i. Administrative completeness review time-frame: 85 days.

~~b.~~ii. Substantive review time-frame: five days.

~~c.~~iii. Overall time-frame: 90 days.

~~7.~~4. Temporary license. All licenses are temporary for 90 days under A.R.S. § 5-108(F). Unless the ~~Department~~ Director denies a license to an applicant, a temporary license automatically becomes the license after 90 days.

5. The Department shall perform a background investigation of an applicant including fingerprint processing through the Department of Public Safety and the FBI, and reviewing records of the Association of Racing Commissioners International, Inc., North American Pari-mutuel Regulators Association, information systems, courts, law enforcement agencies, and Department within the time-frame prescribed in subsection (D)(3).

E. No change

1. A license may be denied if the applicant:
   a. ~~Habitually has~~ Has been or is intoxicated or a user of ~~narcotics~~ a narcotic as defined at A.R.S. § 36-2501(A)(8) within the grounds of the permittee ~~pursuant to A.R.S. § 36-2501(A)(8),~~ ; or
   b. ~~Has failed~~ Fails to disclose the true ownership or interest in any greyhound.
2. ~~Whenever~~ When a license is denied, the ~~Department~~ Director shall report the ~~reasons~~ reason for the denial in writing to the applicant and to the Association of Racing Commissioners International, Inc. and the North American Pari-mutuel Regulators Association.

F. No change

1. No change
2. No change
3. The ~~Department~~ Director or designee shall not license a person ~~under~~ who is less than 16 years of age in any capacity other than as an owner; and shall not license a person ~~under~~ who is less than 18 as an official, trainer, or assistant trainer. ~~Any~~ A person ~~under~~ who is less than 18~~,~~ who is licensed as an owner, shall have a parent or guardian sign the owner's license application, ~~the parent or guardian~~ assuming full financial responsibility for the ~~applicant~~ owner, before that ~~person can~~ owner is eligible to be licensed.
4. ~~Each~~ A license ~~shall expire~~ expires on ~~the 31st day of~~ January 31, 1996, and every third year thereafter, except that one-year licenses ~~may be~~ issued for mutuel workers, concession workers, lead-outs, cool-outs, and peace officers~~.~~ ~~Such licenses shall~~ expire each year on ~~the 31st day of~~ January 31. ~~, 1996, and every year thereafter~~.
5. ~~All persons, when~~ When present in the kennel area of a greyhound track, ~~in~~ the paddock ~~areas~~ area, or ~~in~~ any other restricted area, a person shall wear in full view a photo identification badge issued by the Department or pass issued by the permittee ~~in full view~~.

G. No change

~~**H.** All licenses are temporary under A.R.S. § 5-108(F). The Department shall perform a background investigation, including fingerprint processing through the Department of Public Safety and the FBI, and research and review of records of the~~

~~Association of Racing Commissioners International, Inc., the North American Pari-mutuel Regulators Association, information systems, courts, law enforcement agencies, and the Department within the time-frame prescribed in R19-2-306(D)(4).~~

~~I.~~**H.** Authorized agents

1. No change
2. The principal shall sign the license application ~~for a license~~ on behalf of an authorized agent and clearly ~~set forth~~ identify the powers of the agent, including whether the agent is empowered to collect money from the permittee. The license application shall be either notarized or signed in the presence of a Department employee and a copy filed with the horsemen's bookkeeper and ~~with~~ the Department.
3. ~~The principal shall~~ To change an agent's powers or revoke an agent's authority, the principal shall describe the changed powers or revoked authority in writing that is either notarized or signed in the presence of a Department official, and filed with the Department and the horsemen's bookkeeper.